

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6313 SENATE JUDICIARY

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Original sponsor(s): SEN. STURGULEWSKI, Kelly, Kerttula, Pearce, Rodey,
Binkley, Uehling

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 19 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to seizure and forfeiture of proper-
7 ty in cases involving alcoholic beverages, controlled
8 substances, and imitation controlled substances."

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

10 * Section 1. AS 04.16.220 is repealed and reenacted to read:

11 Sec. 04.16.220. PROPERTY SUBJECT TO FORFEITURE. (a) ~~Pursuant~~
12 ^{Under} ~~to~~ the procedures set out in AS 12.38, alcoholic beverages are subject
13 to forfeiture to the state if

14 (1) manufactured, delivered, distributed, possessed, con-
15 cealed, stored, acquired, sold, exchanged, or offered for sale or
16 exchange, or transported, or ~~an attempt or solicitation to commit one~~
17 ^{is attempted or solicited,} of these acts, in violation of a criminal law under AS 04;

18 (2) unlawfully possessed in an area where the results of a
19 local election under AS 04.11.498 have prohibited possession of alco-
20 holic beverages; or

21 (3) found on licensed premises without excise stamps re-
22 quired by federal law.

23 (b) The property listed in (c) of this section is subject to
24 forfeiture, ^{under} ~~pursuant to~~ the procedures set out in AS 12.38, if

25 (1) except for liquor licenses forfeited under AS 04.16.-
26 180, the property is used, or intended to be used, to commit or facil-
27 itate an offense under AS 04.11.010, AS 04.16.175, AS 04.21.060,
28 ^{an offense} relating to alcoholic beverages on licensed premises without excise
29 stamps required by federal law, or ^{an offense} relating to conduct made criminal

1 because of the results of a local election under AS 04.11.490 - 04.-
2 11.500; or

3 (2) ~~the property is~~ used, or intended to be used, in a
4 direct or indirect exchange for an alcoholic beverage in violation of
5 an offense under AS 04.11.010, or is traceable to or derived from such
6 an exchange.

7 (c) The following property is subject to forfeiture under (b) of
8 this section:

9 (1) firearms, explosives, or weapons of any type;

10 (2) money, securities, negotiable instruments, or anything
11 of value, whether tangible or intangible, secure or unsecured;

12 (3) raw materials, chemicals, pharmaceuticals, or anything,
13 including plants or other living organisms, from which alcoholic
14 beverages might be derived;

15 (4) books, records, tapes, formulas, research papers, and
16 equipment of any type, including data processing equipment and elec-
17 tronic equipment used in surveillance or countersurveillance efforts;

18 (5) aircraft, vehicles, vessels, and conveyances of any
19 type; and

20 (6) any right, title, or interest in real property, and any
21 improvements or appurtenances, if the offense making the property
22 subject to forfeiture is a felony offense.

23 (d) Notwithstanding any other provisions of AS 12.38, alcoholic
24 beverages seized ~~pursuant~~ ^{under} to AS 12.38.020 are forfeit and subject to
25 immediate destruction by a peace officer if

26 (1) unlawfully possessed in an area where the results of a
27 local election under AS 04.11.498 have prohibited possession of alco-
28 holic beverages; or

29 (2) in the process of being consumed or the container of

1 the alcoholic beverage has been opened or the seal on the container
2 has been broken.

3 (e) Except as provided in (d) of this section, alcoholic beverages
4 forfeited to the state shall be destroyed by the law enforcement
5 agency with custody of the property in accordance with procedures
6 prescribed by the commissioner of public safety.

7 (f) As used in this section, "offense" includes an attempt or
8 solicitation to commit an offense.

9 * Sec. 2. AS 12 is amended by adding a new chapter to read:

10 CHAPTER 38. FORFEITURE OF PROPERTY.

11 Sec. 12.38.010. APPLICABILITY. The provisions of this chapter
12 apply to property subject to forfeiture under

13 (1) AS 04.16.220; and

14 (2) AS 17.30.110.

15 Sec. 12.38.020. SEIZURE OF PROPERTY SUBJECT TO FORFEITURE. (a)
16 Property subject to forfeiture may be seized by a peace officer

17 (1) under an order issued by a court in an ex parte proceeding
18 upon a showing

19 (A) of probable cause that the property is subject to
20 forfeiture; or

21 (B) that a grand jury has returned an indictment
22 finding that the evidence, if unexplained or uncontradicted,
23 would warrant a court's conclusion that the property specifically
24 identified in the indictment is subject to forfeiture; or

25 (2) without a court order if

26 (A) constitutionally permissible or otherwise authorized by law;
27

28 (B) the property has been the subject of a judgment in
29 favor of the state in a forfeiture proceeding; or

1 (C) there is probable cause to believe that the prop-
2 erty is subject to forfeiture and is easily movable; except for
3 alcoholic beverages, controlled substances, or imitation con-
4 trolled substances, property seized solely under this subpara-
5 graph may not be held for more than 48 hours without a court
6 order ~~which may be obtained as described in~~ ^{under} (a)(1) of this
7 section.

8 (b) Property which cannot, with reasonable effort, be taken into
9 physical custody may be constructively seized by posting a written
10 notice of the seizure in a conspicuous place on the property. This
11 paragraph does not prohibit other reasonable methods of constructive
12 seizure.

13 Sec. 12.38.030. NOTICE OF SEIZURE; CUSTODY OF SEIZED PROPERTY;
14 INVENTORY AND APPRAISAL. (a) Within 30 days after a seizure under
15 AS 12.38.020, the law enforcement agency responsible for custody of
16 the property shall, by certified mail, give notice of the seizure to
17 persons known to have a financial interest in an item with an estimat-
18 ed value more than \$1,000, or whose interest in such property is
19 ascertainable from official tax rolls, registration numbers, licenses,
20 or other state, federal, or municipal identification numbers affixed
21 to the property.

22 (b) Subject to the order of the court, property seized under
23 AS 12.38.020 remains in the legal custody of the Department of Public
24 Safety or a municipal law enforcement agency authorized by the commis-
25 sioner of public safety to retain custody. The agency responsible for
26 custody may, in its discretion, release the property to another appro-
27 priate person.

28 (c) Within 10 days after a seizure under AS 12.38.020, the law
29 enforcement agency responsible for custody of the property shall

1 estimate the value, ~~and~~ make an inventory of the property, ^{and send} ~~The inven-~~ ¹ ~~tory and estimate must be sent~~ to the attorney general.

3 (d) If the attorney general determines that a forfeiture pro-
4 ceeding cannot be sustained or as a matter of discretion will not be
5 instituted, a written report of that decision must be sent to the
6 agency responsible for custody of the property and the property must
7 be returned to the person from whom it was obtained.

8 (e) This section does not apply to property that is subject to
9 automatic forfeiture under AS 04.16.220(d) or AS 17.30.110(c), or to
10 property seized ^{under} ~~pursuant~~ to AS 12.38.020(a)(2)(B).

11 Sec. 12.38.040. PRESERVATION OR DISPOSAL OF PROPERTY BEFORE
12 ORDER OF FORFEITURE. (a) A court may issue an appropriate temporary
13 or other order, require execution of a satisfactory performance bond
14 to the state, or take other action to preserve the availability or
15 value of property seized under AS 12.38.020.

16 (b) Action by the court under (a) of this section may be taken
17 upon ex parte application of the state if there is reason to believe
18 that notice would jeopardize the availability or value of the property
19 for forfeiture.

20 (c) The state may, at any time before an order of forfeiture is
21 issued, request the sale or other disposition of property seized under
22 AS 12.38.020. A person claiming an interest in the property may also
23 request sale or other disposition before an order of forfeiture is
24 issued if the person proves ^{by a preponderance of the evidence} that

25 (1) the person has filed a timely claim under AS 12.38.070
26 or, before the initiation of a forfeiture proceeding, has sent a
27 notice of claim to the commissioner of public safety in conformance
28 with the requirements of AS 12.38.070(b);

29 (2) the property is not likely to be used as evidence in a

1 judicial or administrative proceeding;

2 (3) the person has given adequate assurance that the prop-
3 erty or its proceeds will remain subject to the court's jurisdiction;

4 (4) the sale or other disposition is in the best interests
5 of the state and will provide for protection of the value of the
6 property; and

7 (5) the person provides a bond or other equivalent security
8 equal to twice the estimated value of the property.

9 (d) Proceeds from any sale of property, plus interest earned on
10 the proceeds to the date of termination of the proceedings, become the
11 subject of the forfeiture action in the same manner as the property
12 itself.

13 Sec. 12.38.050. FORFEITURE PROCEEDINGS; NOTICE; BURDEN OF PROOF;
14 DEFENSES EXEMPTED. (a) A forfeiture proceeding

15 (1) may be initiated by the state filing a motion to for-
16 feit in a criminal or civil proceeding relating to the conduct that
17 makes the property subject to forfeiture;

18 (2) may be initiated by the state filing a complaint in a
19 separate in rem proceeding; or

20 (3) under AS 12.38.060 may be initiated by the commissioner
21 of public safety directing that publication under (b) of this section
22 be made of the state's intent to seek forfeiture of property adminis-
23 tratively.

24 (b) Within 30 days after a forfeiture proceeding has been initi-
25 ated as provided in (a) of this section,

26 (1) persons required to be notified under AS 12.38.030 must
27 be served with a copy of the motion, complaint, or other notice in any
28 manner authorized for service of process under the rules of civil
29 procedure; and

1 (2) the law enforcement agency with custody of the property
2 shall begin to publish notice of the forfeiture proceeding in the
3 manner provided for service by publication under the rules of civil
4 procedure; the notice must include

5 (A) a list of property with an estimated value of more
6 than \$1,000, with a description of the property, including motor
7 vehicle or other registration numbers;

8 (B) the approximate value of the property;

9 (C) the date and place of seizure;

10 (D) the reason why the property is subject to forfei-
11 ture;

12 (E) provide a citation to this chapter, and a citation
13 to the court docket number relating to any judicial forfeiture
14 proceeding; and

15 (F) notice that the property will be forfeited to the
16 state if a timely claim is not filed pursuant to this chapter.

17 (c) The notice requirements of (b) of this section do not apply
18 to property that is subject to automatic forfeiture under AS 04.16.-
19 220(d) or AS 17.30.110(c).

20 (d) In a forfeiture proceeding other than a summary administra-
21 tive proceeding under AS 12.38.060, the state must prove by a prepon-
22 derance of the evidence that the property is subject to forfeiture.
23 It is prima facie evidence, sufficient to support an order of forfei-
24 ture, that a defendant has been convicted of conduct making the prop-
25 erty subject to forfeiture, or that a grand jury has returned an
26 indictment finding that the evidence, if unexplained or uncontradict-
27 ed, would warrant a court to conclude that the property specifically
28 identified in the indictment is subject to forfeiture.

29 (e) Questions of fact or law in a forfeiture proceeding ^{shall} ~~must~~ be

1 determined by the court, sitting without a jury. A person claiming an
2 interest in the property under AS 12.38.070 and 12.38.090 may testify,
3 present evidence and witnesses, and cross-examine witnesses presented
4 by other parties. In addition to other testimony and evidence pre-
5 sented, the court shall consider the relevant portions of the record
6 of any related criminal action.

7 (f) Except for proceedings under AS 12.38.090(a)(2) to permit
8 use of exempted property, at the request of the state a forfeiture
9 proceeding, including discovery, shall be held in abeyance until the
10 conclusion of a pending criminal action relating to the conduct making
11 the property subject to forfeiture.

12 (g) It is not a defense to a forfeiture proceeding that a crimi-
13 nal offense has not been prosecuted, or has resulted in a conviction
14 of a different offense or an acquittal.

15 Sec. 12.38.060. SUMMARY ADMINISTRATIVE FORFEITURE PROCEDURES.

16 (a) If the value of the property seized under AS 12.38.020 does not
17 exceed \$100,000 and is not real property, the commissioner of public
18 safety may order forfeiture of the property administratively. The
19 administrative process is governed by this chapter, and not by the
20 Administrative Procedure Act (AS 44.62).

21 (b) The commissioner of public safety shall terminate the admin-
22 istrative forfeiture proceeding, and refer the matter to the attorney
23 general for initiation of a judicial forfeiture proceeding, if a
24 person files a timely claim under AS 12.38.070 and at the same time
25 deposits with the commissioner, in cash or by way of a bond approved
26 by the commissioner, 25 percent of the appraised value of the prop-
27 erty, but not less than \$1,000. The deposit is conditioned to secure
28 the payment of all reasonable costs and expenses of the judicial
29 forfeiture proceeding, including attorney fees, if the state is the

1 prevailing party.

2 Sec. 12.38.070. PROCEDURE FOR CLAIMANTS. (a) A person claiming
3 an interest in property that is the subject of a forfeiture proceed-
4 ing, including persons who claim an exemption under AS 12.38.-
5 090(a)(2), shall file a claim

6 (1) in a judicial forfeiture proceeding, within the time
7 permitted under applicable court rules; or

8 (2) in an administrative forfeiture proceeding under
9 AS 12.38.060, within 20 days of the date of the final publication
10 under AS 12.38.050(b)(2).

11 (b) The claim ^{shall} ~~must~~ be

12 (1) filed with the court in judicial forfeiture proceed-
13 ings, or with the commissioner of public safety in administrative
14 forfeiture proceedings under AS 12.38.060;

15 (2) sworn under oath; and

16 (3) set out with specificity the reasons why the property
17 is not subject to forfeiture or why the person is entitled to relief
18 under AS 12.38.090, the nature of the person's right, title, or inter-
19 est in the property, the time and circumstances of the person's acqui-
20 sition, the consideration paid, and any additional facts supporting
21 the claim.

22 (c) If a claim is not timely filed, the property shall be for-
23 feited to the state without further proceedings.

24 Sec. 12.38.080. ORDER OF FORFEITURE; LIEN IN FAVOR OF THE STATE.

25 (a) If the state proves that property is subject to forfeiture, the
26 property may be ordered forfeited to the state, ~~subject to proof that~~
27 ~~a person is entitled to relief under AS 12.38.090.~~ ^{except as provided in} ^{or an order granting}
^{relief under AS 12.38.090.}

28 (b) An order of judicial or administrative forfeiture,[^] provides
29 clear title to the ~~state. An order of forfeiture subject to relief~~

1 ~~under AS 12.38.090 clears, in favor of the person~~ ^{party} entitled to the
2 ~~property,~~ ^{free of} all liens, encumbrances, or other clouds on the title re-
3 sulting from the forfeiture proceeding.

4 (c) A person ~~who~~ ^{whose conduct} causes property to be subject to forfeiture
5 shall pay the reasonable cost of maintenance, storage, disposal, or
6 other expenses of the forfeiture proceeding, including attorney fees,
7 either as part of a sentence, a condition of probation or suspended
8 imposition of sentence, or as a mandatory assessment of costs in a
9 forfeiture proceeding.

10 (d) A judicial order of forfeiture shall forfeit to the state
11 any other assets of the person who caused the property to be subject
12 to forfeiture, up to the value of any property subject to forfeiture
13 ~~which~~ ^{that} has been

14 (1) commingled with other property and cannot be separated
15 without difficulty;

16 (2) transferred to, sold to, or deposited with a third
17 party, placed beyond the jurisdiction of the court, or removed so it
18 cannot be located;

19 (3) substantially diminished in value by any act or omis-
20 sion of the person who caused the property to be subject to forfei-
21 ture; or

22 (4) ordered returned to an innocent party under AS 12.38.-
23 090(a)(1).

24 (e) An order of forfeiture issued under this section may be made
25 regardless of the location of any property that might be subject to
26 forfeiture or that has been ordered forfeited.

27 (f) A perfected priority lien over property that has been order-
28 ed forfeited is created in favor of the state up to an amount that is
29 the sum of the expenses of investigation, prosecution, and forfeiture

1 arising out of the conduct making the property subject to forfeiture.
2 In calculating the amount of the lien, expenses of all state, federal,
3 or local agencies are to be included. The lien has priority over all
4 unsecured and all unperfected secured debts associated with the prop-
5 erty.

6 Sec. 12.38.090. RELIEF FROM FORFEITURE. (a) A person who has
7 filed timely claim under AS 12.38.070 may obtain relief from the
8 forfeiture upon proof by a preponderance of the evidence

9 (1) that the person

10 (A) has a valid right, title, or interest in the
11 property, acquired in good faith, which takes priority over a
12 lien in favor of the state under AS 12.38.080(f);

13 (B) did not knowingly participate in or facilitate the
14 conduct that resulted in the property being subject to forfei-
15 ture; and

16 (C) at no time knew, or had reasonable cause to be-
17 lieve, that the property was or might be subject to forfeiture;
18 or

19 (2) that the person provides more than half the support of
20 a minor dependent living in the person's household, in which case the
21 person may claim exemptions from the forfeiture to the extent permit-
22 ted under AS 09.38.010 - 09.38.090 of the Alaska Exemptions Act;
23 however, an exemption may not be permitted for a liquor license gran-
24 ted under AS 04 or a limited entry permit granted under AS 16.43.

25 (b) If the person claiming an interest in the property is found
26 to be entitled to less than the total value of the property, the
27 person may choose to receive either the proportional value of the
28 partial interest that is realized upon disposition of the property or,
29 upon payment of the difference in value, the entire property. In

1 cases of multiple claims, the return of the property is to be based on
2 the value and priority of each person's respective interest, or is to
3 be otherwise allocated by the court in the interests of justice.

4 Sec. 12.38.100. STATE DISPOSAL OF FORFEITED PROPERTY. (a) For-
5 feited property, other than property summarily forfeited under AS 04.-
6 16.220(c) or AS 17.30.110(c), must be transferred to the commissioner
7 of administration for disposition in accordance with applicable law.
8 The commissioner of administration may

9 (1) destroy property harmful to the public;

10 (2) sell the property and, subject to appropriations for
11 that purpose, use the proceeds to pay the expenses of the proceedings
12 of forfeiture and sale, including expenses of seizure, custody, and
13 court costs;

14 (3) transfer the property to another agency of the state or
15 a political subdivision of the state for use in the furtherance of the
16 administration of justice;

17 (4) transfer the property to the United States Department
18 of Justice for disposition;

19 (5) transfer ownership of an aircraft to the Alaska Wing,
20 Civil Air Patrol;

21 (6) at the direction of the commissioner of public safety,
22 transfer up to 90 percent of the net value of forfeited property to
23 one or more political subdivisions of the state; in directing this
24 transfer, the commissioner of public safety may take into account an
25 equitable allocation based on the amount of the contribution made by
26 each agency to the investigation of the conduct making the property
27 subject to forfeiture, or any agreements as to the sharing of assets;
28 or

29 (7) otherwise dispose of the property in accordance with

1 the law.

2 (b) The commissioner of administration shall separately account
3 for the proceeds from the sale of forfeited property under (a) of this
4 section which the commissioner deposits in the general fund. The
5 annual estimated balance in the account may be used by the legislature
6 to make appropriations to the Department of Public Safety for use in
7 the administration of justice.

8 * Sec. 3. AS 17.30.110 is repealed and reenacted to read:

9 Sec. 17.30.110. PROPERTY SUBJECT TO FORFEITURE. (a) ~~Pursuant~~
10 *Under* ~~to~~ the procedures set out in AS 12.38, the property listed in (b) of
11 this section is subject to forfeiture to the state if

12 (1) manufactured, delivered, dispensed, distributed, pos-
13 sessed, concealed, stored, acquired, or transported in violation of
14 AS 11.71 or AS 11.73;

15 (2) used, or intended to be used, to accomplish or facili-
16 tate the manufacture, delivery, dispensing, distribution, possession,
17 concealment, storage, acquiring, or transportation of a controlled
18 substance or imitation controlled substance in violation of AS 11.71
19 or AS 11.73; or

20 (3) used, or intended to be used, in a direct or indirect
21 exchange for a controlled substance or imitation controlled substance
22 in violation of AS 11.71 or AS 11.73, or if traceable to or derived
23 from such an exchange.

24 (b) The following property is subject to forfeiture under (a) of
25 this section:

26 (1) firearms, explosives, or weapons of any type;

27 (2) money, securities, negotiable instruments, or anything
28 of value, whether tangible or intangible, secured or unsecured;

29 (3) raw materials, chemicals, pharmaceuticals, or anything,

1 including plants or other living organisms, from which controlled
2 substances might be derived;

3 (4) books, records, tapes, formulas, research papers, and
4 equipment of any type, including data processing and electronic equip-
5 ment used in surveillance or counter-surveillance efforts;

6 (5) aircraft, vehicles, vessels, and conveyances of any
7 type, if the offense making the property subject to forfeiture is a
8 felony offense; and

9 (6) real property, and any improvements and appurtenances,
10 if the offense making the property subject to forfeiture is a felony
11 offense.

12 (c) Notwithstanding the provisions of AS 12.38, a controlled
13 substance or imitation controlled substance, or plants grown in the
14 wild from which controlled substances or imitation controlled sub-
15 stances are derived, seized pursuant to AS 12.38.020, is automatically
16 forfeited to the state. The law enforcement agency with custody of
17 such property shall dispose of it in accordance with procedures pre-
18 scribed by the commissioner of public safety.

19 (d) In this section, "violation of AS 11.71 or AS 11.73" in-
20 cludes an attempt or solicitation under AS 11.31 to violate AS 11.71
21 or AS 11.73.

22 * Sec. 4. AS 18.60.148(a) is amended to read:

23 (a) A transfer to the Alaska Wing, Civil Air Patrol, of a for-
24 feited aircraft under AS 12.38, AS 16.05.195(f), [AS 17.30.122,] or
25 another state law or regulation, is subject to the following condi-
26 tions:

27 (1) the transfer shall be made without cost to the Civil
28 Air Patrol;

29 (2) the aircraft becomes a corporate Civil Air Patrol

1 aircraft;

2 (3) the aircraft may only be used for Civil Air Patrol
3 search and rescue, civil defense, and training purposes;

4 (4) the aircraft may not be transferred to another wing of
5 the Civil Air Patrol unless

6 (A) the aircraft has been corporate aircraft of the
7 Alaska Wing, Civil Air Patrol for at least 36 months after the
8 date of transfer to the Alaska Wing; or

9 (B) the aircraft is being exchanged for another Civil
10 Air Patrol corporate aircraft of equivalent or greater value;

11 (5) if the Civil Air Patrol determines that the aircraft
12 should be disposed of as surplus property, the disposition shall first
13 be approved by the Department of Administration.

14 * Sec. 5. AS 11.73.060; AS 17.30.112, 17.30.114, 17.30.116, 17.30.118,
15 17.30.120, 17.30.122, 17.30.124, and 17.30.126 are repealed.
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STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 6, 1989

SUBJECT: Senate Bill 20, sectional analysis
TO: Senator Pat Rodey
FROM: Jack Chenoweth
Legislative Counsel



Senate Bill 20 defines the crime of conspiracy with reference to offenses in two general categories--

- (1) trafficking in controlled substances through purchase and sale or delivery of illicit drugs; and
- (2) prostitution and the promotion of prostitution.

* * *

Bill section 1 adds two new sections that together set out the principal substantive provisions of the crime of conspiracy. In that bill section --

Proposed AS 11.31.120(a) defines the crime. It follows the Model Penal Code suggestion by basing the definition on a finding that the offender has agreed with at least one other person to engage in or perform the offense. The section also incorporates two related requirements, the first that the agreement be communicated, and the second that one of the parties shall have performed an overt act in furtherance of the offense.

Proposed AS 11.31.120(b) speaks to the dimension of the crime of conspiracy as it relates to the participating parties. This subsection broadens the conspiracy net to include persons with whom the offender knows that his or her co-conspirator conspired, although the offender may not know the exact identities of these persons.

Following the Model Penal Code's suggestion, proposed AS 11.31.120(c) identifies certain defenses that a person

charged as a conspirator may not claim. They include provisions that the defendant may not claim as a defense the defender's individual incapacity or immunity from criminal responsibility for conduct that constitutes an offense, and instances in which the defendant asserts as a defense a co-conspirator's incapacity or immunity from criminal responsibility for any of the reasons specified in the second paragraph. Section 120(c)'s provisions are included in recognition of the legal basis for the definition of the conspiracy, that is, the evidence of the defendant's agreement and purpose to commit a crime, notwithstanding a party's legal incapacity or immunity.

An ongoing question related to the crime of conspiracy involves its applicability to instances involving crimes that, by their definition, require the efforts of at least two people. (Adultery and bigamy are typically used as examples, but delivery of controlled substances is an equally valid example.) In jurisdictions that follow a common law-based conspiracy provision, the courts have fashioned and typically apply something called the "Wharton Rule". Under the Wharton Rule, a person may not be charged with or convicted of conspiracy if only the minimum number of parties necessary for commission of the substantive offense had agreed to its commission. The effect of the Wharton Rule is to shield from a prosecution for conspiracy both parties to a crime that, by definition, required the concerted action of these two persons.

In conjunction with analysis and discussion of the Wharton Rule, AS 11.31.120(d) exempts from criminal liability for conspiracy a defendant "who would not be legally accountable under AS 11.16.120(b) for the conduct of the person with whom the defendant conspired". The purpose of the provision is to assure that a person who would not be criminally liable as a party if a crime was completed would not be liable for conspiracy when the crime is not completed. The cross-referenced provision, AS 11.16.120(b), states:

Except as otherwise provided by a provision of law defining an offense, a person is not legally accountable for the conduct of another constituting an offense if

. . .

(2) the offense is so defined that the person's conduct is inevitably incidental to its commission.

As that existing provision may be applied, this office has previously advised that AS 11.16.120(b)(2) would, when read with proposed AS 11.31.120(d), provide a defendant a defense to a prosecution for conspiracy for purchase of a controlled substance. The opinion rested on the finding that the conduct of the purchaser was "inevitably incidental" to the commission of the offense, and thereby brought within that defense. In other words, as with the court-fashioned Wharton Rule, reading the existing statute and proposed AS 11.31.120(d) together, one could not be successfully prosecuted, for example, for both the delivery of the controlled substance (under AS 11.71.010 - 11.71.050) and for the conspiracy to deliver a controlled substance. In other words, one could not be convicted for both the criminal object crime and the agreement to commit it.

Following the Model Penal Code example, these proposed conspiracy provisions are defined on a "unilateral" basis: that is, the crime is defined with reference to the criminal behavior of the individual--specifically, that individual's agreement--rather than resting the definition on a mutual decision. In other words, a distinguishing element of conspiracy is the presence of an agreement. Proposed AS 11.31.120(e) is intended to set up an affirmative defense to cover the situation in which the individual enters into agreement with only one other person and it is found that the second party is a law enforcement officer or similar person whose involvement in the conspiracy was to obtain evidence of criminal activity. The subsection is intended to be responsive to a concern that the conspiracy provision not operate when the only second party involvement was that of a law enforcement officer acting consistently with the officer's law enforcement duties.

Typically, conspiracy statutes generally define a duration to the conspiracy, and specify the conditions or circumstances under which an offender may withdraw from the conspiracy. Following, generally, the Model Penal Code example, proposed AS 11.31.120(f) serves that purpose. The requirement in this statute is, of course, that the withdrawal shall have been timely communicated to a law enforcement official so that law enforcement authorities, "reasonably acting on the warning", would have had an opportunity to prevent commission of the crime.

A chapter of the state's criminal code, AS 11.16, sets out provisions prescribing legal accountability--individually, for the conduct of another, and for an organization--and

enumerates exemptions by way of affirmative defense. Proposed AS 11.31.120(g) provides that the requirements and exception of AS 11.16 are made specifically applicable to ascertain and define the criminal liability of the conspirator as to the offenses that are committed in furtherance of the conspiracy.

Proposed AS 11.31.120(h) classifies the crime of conspiracy for purposes of imposition of sentence.

Another element bearing upon conspiracy prosecutions is, of course, the statute of limitations applicable to initiation of prosecution under the conspiracy statute. Because conspiracy is defined as a "continuing course of conduct" subject to termination as specified by law, it is often critical to know, and difficult to ascertain with certainty, the time at which a conspiracy ceases. The language provided in proposed AS 11.31.125, based on the Model Penal Code example, is an attempt to specify with a degree of certainty the durational element of the conspiracy.

In context, the events or circumstances specified in the section seem straightforward.

* * *

Bill sections 2 and 3 amend and add to provisions of current law that limit multiple convictions for the inchoate crime and for the related, substantive crime.

Given the generally consistent treatment afforded to conspiracies, attempts, and solicitations, the amendments made in bill section 2 serve the purpose of applying the same limitations to the crime of conspiracy to deliver a controlled substance or to engage in prostitution as are currently applicable to the crimes of attempt and solicitation. These provisions address in turn: denial of a defense in a prosecution for the inchoate crime for completion of the objective crime [subsection (a)]; a limitation on multiple convictions "for conduct" that was "designed to commit or culminate in commission of the same crime" [subsection (b)]; a limitation on conviction predicated on the same course of conduct under the inchoate criminal provision and for successful completion of the object crime [subsection (c)]; and a provision specifically permitting prosecution of multiple counts on a single information or indictment [subsection (d)].

Senator Pat Rodey

Page 5

February 6, 1989

The material in bill section 3 stands for the proposition that various offenses that are the product of a continuous relationship between the parties are part of a single conspiracy and should be so treated. This section is predicated on the assumption that multiple criminal objectives do not necessarily presume multiple conspiracies. The provision merely codifies existing case law. See Braverman v. United States, 317 U.S. 49, 87 L.Ed. 23, 63 S.Ct. 99 (1942).

TBC:kb
wkk1/105

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 19, 1989

SUBJECT: Comparing Senate Bill 16 and Senate Bill 20
TO: Senator Pat Rodey
FROM: Jack Chenoweth
Legislative Counsel

The essential difference in the two bills is one of scope or definition of the crime described.

The subject matter of Senate Bill 16 is the definition of the crime of "conspiracy to deliver a controlled substance." Since the scope of the conspiracy is limited to the subject matter of controlled substances, I drafted to add the definition to the Controlled Substances chapter (AS 11.71) of the title defining offenses.

The subject matter of Senate Bill 20 is the definition of the crime of conspiracy in a slightly broader context. In addition to defining "conspiracy" as it applies to delivery of a controlled substance under AS 11.71, SB 20 includes in the definition "conspiracy" as it relates to the substantive crimes of prostitution and promotion of prostitution. Since this definition of conspiracy has a concern that involves more than one category of criminal activity, I drafted to add the provisions to the "inchoate crimes" chapter, AS 11.31.

Allowing for stylistic differences, in virtually every other respect, the provisions of the two measures are substantively parallel. There is one exception. AS 11.31.120(f) [page 2, lines 14 - 20] appears in SB 20; it does not have a comparable provision in SB 16. The subsection is included specifically in response to a request from the sponsor of the House measure from which this Senate version was taken to assure that a defendant could not be convicted for conspiracy if the agreement of the defendant on which the conspiracy charge is based had been made only with a law enforcement officer. The House sponsor indicated a reluctance to permit a charge of conspiracy to lie where the agreement could well involve an entrapment.

If you need more than this, please contact me.

JBC:kb
wkk1/056

- (b) Criminal possession of explosives is a
- (1) class A felony if the crime intended is murder in any degree or kidnapping;
 - (2) class E felony if the crime intended is a class A felony;
 - (3) class C felony if the crime intended is a class B felony;
 - (4) class A misdemeanor if the crime intended is a class C felony;
 - (5) class B misdemeanor if the crime intended is a class A or class B misdemeanor. (§ 7 ch 166 SLA 1978)

Collateral references. — 31 Am. Jur. Possession of bomb, molotov cocktail, or
 2d, Explosions and Explosives, similar device as criminal offense, 42
 §§ 121-130. ALR3d 1230.
 35 C.J.S., Explosives, § 12.

Sec. 11.61.250. Unlawful furnishing of explosives. (a) A person commits the crime of unlawful furnishing of explosives if the person furnishes an explosive substance or device to another knowing that the other intends to use the substance or device to commit a crime.

(b) Unlawful furnishing of explosives is a class C felony. (§ 7 ch 166 SLA 1978)

Chapter 65. Offenses Against Public Convenience.

Secs. 11.65.010 — 11.65.020. [Renumbered as AS 30.50.020 and 30.50.010.]

11.65.030. Tampering with posted notices. [Repealed, § 21, ch. 166, SLA 1978.]

Chapter 66. Offenses Against Public Health and Decency.

title

Prostitution and Related Offenses (§§ 11.66.100 — 11.66.150)

Gambling Offenses (§§ 11.66.200 — 11.66.280)

Article 1. Prostitution and Related Offenses.

Sec	Section
100. Prostitution	130. Promoting prostitution in the third degree
110. Promoting prostitution in the first degree	140. Corroboration of certain testimony not required
120. Promoting prostitution in the second degree	150. Definitions

NOTES TO DECISIONS

Municipal ordinances not prohibited. — The enactment of this article does not prohibit municipal ordinances penalizing the solicitation of prostitutes by putative customers. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

There is nothing in this article which

would support an inference that the legislature sought to encourage men to patronize prostitutes nor is there any indication in this article that the legislature sought statewide uniformity in regulating commercial sexual relations. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

Collateral references. — 63 Am. Jur. 2d, Prostitution, § 1 et seq.

27 C.J.S., Disorderly Houses, § 1 et seq.; 73 C.J.S., Prostitution, § 1 et seq.

Constitutionality and construction of pandering acts, 74 ALR 311.

Validity and construction of statute or ordinance proscribing solicitation for purposes of prostitution, lewdness, or assignation — modern cases, 77 ALR3d 519.

Sec. 11.66.100. Prostitution. (a) A person commits the crime of prostitution if the person engages in or agrees or offers to engage in sexual conduct in return for a fee.

(b) Prostitution is a class B misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law, whereas fornication and prostitution were not. *Eleazar v. United States*, 16 Alaska 561, 241 F.2d 385 (9th Cir. 1956), decided under former AS 11.40.220.

This section is not irreconcilable with a municipal ordinance prohibiting the solicitation of prostitutes by putative customers. *Municipality of Anchorage v. Afualo*, Ct. App. Op. No. 213 (File Nos. 7094, 7095), 657 P.2d 407 (1983).

Actual payment of a fee is not required; an act of prostitution is com-

plete when an offer is extended or an agreement made to engage in sexual conduct in return for a fee. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).

Proof. — Customer's testimony that he agreed to purchase sexual favors for sum of \$200, his testimony that he charged the purchase price using his VISA card, and the VISA charge slip itself, were all highly probative of whether an agreement or offer to engage in sexual conduct in return for a fee was in fact made. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).

Collateral references. — Prostitution as vagrancy, 14 ALR 1501.

Entrapment to procure women for

immoral purposes, 18 ALR 186; 66 ALR 478; 86 ALR 263.

Sec. 11.66.110. Promoting prostitution in the first degree. (a) A person commits the crime of promoting prostitution in the first degree if the person

(1) induces or causes a person to engage in prostitution through the use of force;

(2) as other than a patron of a prostitute, induces or causes a person under 16 years of age to engage in prostitution; or

(3) induces or causes a person in that person's legal custody to engage in prostitution.

(b) In a prosecution under (a)(2) of this section, it is not a defense that the defendant reasonably believed that the person induced or caused to engage in prostitution was 16 years of age or older.

(c) Except as provided in (d) of this section, promoting prostitution in the first degree is a class B felony.

(d) A person convicted under (a)(2) of this section is guilty of a class A felony. (§ 8 ch 166 SLA 1978; am §§ 1, 2 ch 50 SLA 1983)

Effect of amendments. — The 1983 amendment added "Except as provided in (d) of this section" to the beginning of subsection (c) and added subsection (d).

NOTES TO DECISIONS

For case construing former statute prohibiting importing or exporting females for immoral purposes, see State v. Adkerson, Sup. Ct. Op. No. 294 (File No. 520), 403 P.2d 673 (1965).

For case construing former procurement statute, see Johnson v. State, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

Sentence for procurement upheld. — See Price v. State, Sup. Ct. Op. No. 1450 (File No. 2794), 565 P.2d 858 (1977).

For case construing former statute concerning necessary evidence for prostitution or seduction, see Johnson v. State, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

Collateral references. — Transporting female for purpose of prostitution, 74 ALR 330.

Woman conniving or consenting to own transportation, 84 ALR 376.

Sec. 11.66.120. Promoting prostitution in the second degree.

(a) A person commits the crime of promoting prostitution in the second degree if the person

(1) manages, supervises, controls, or owns, either alone or in association with others, a prostitution enterprise other than a place of prostitution; or

(2) procures or solicits a patron for a prostitute.

(b) Promoting prostitution in the second degree is a class C felony. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former statute prohibiting soliciting or procuring for purpose of prostitution, see *Plas v. State*, Sup. Ct. Op. No. 1904 (File Nos. 3529, 3530), 598 P.2d 966 (1979).

Instruction. — Trial court did not err in

refusing to give instruction requiring state to prove that prostitution enterprise involved in case was of an ongoing nature. *Garibay v. State*, Ct. App. Op. No. 221 (File No. 6246), 658 P.2d 1350 (1983).

Collateral references. — Separate acts of taking earnings of or support from pros-

titute as separate or continuing offenses of pimping, 3 ALR4th 1195.

Sec. 11.66.130. Promoting prostitution in the third degree. (a) A person commits the crime of promoting prostitution in the third degree if, with intent to promote prostitution, the person manages, supervises, controls, or owns, either alone or in association with others, a place of prostitution;

(2) as other than a patron of a prostitute, induces or causes a person 16 years of age or older to engage in prostitution;

(3) as other than a prostitute receiving compensation for personally rendered prostitution services, receives or agrees to receive money or other property pursuant to an agreement or understanding that the money or other property is derived from prostitution; or

(4) engages in conduct that institutes, aids, or facilitates a prostitution enterprise.

(b) Promoting prostitution in the third degree is a class A misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Editor's notes. — The cases cited in the notes below were decided under former AS 11.40.260, 11.40.300, 11.40.330, 11.40.410, and 11.40.420.

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law. *Eleazar v. United States*, 16 Alaska 561, 241 F.2d 385 (9th Cir. 1956).

Lessor may be guilty as keeper. — If a man leases his house to a woman to be kept as a bawdyhouse for purposes of prostitution, and it is kept for such purposes, with his knowledge, he is guilty as keeper. *Rosencranz v. United States*, 155 F. 38 (9th Cir. 1907).

As well as agent of lessor. — The agent of an owner, who rents a house knowing that it is to be used as a house of prostitution, and that it is so used, may be found guilty as a keeper. *Rosencranz v.*

United States, 155 F. 38 (9th Cir. 1907).

For case construing former statute prohibiting employment in a house of prostitution or living on the earnings of a prostitute, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

For case construing former statute prohibiting importing or exporting females for immoral purposes, see *State v. Adkerson*, Sup. Ct. Op. No. 294 (File No. 520), 403 P.2d 673 (1965).

For case construing former statute prohibiting pimping, see *Johnson v. United States*, 260 F. 783 (9th Cir. 1919).

For case construing former statute prohibiting a male's living with or on the earnings of a prostitute, see *Dunn v. State*, Sup. Ct. Op. No. 409 (File No. 735), 426 P.2d 993 (1967).

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to the crime of
Conspiracy."
Sponsor: Sen. Rodey
Requestor: Senate Judiciary

Agency Affected: Department of Law
BRU: Prosecution
Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		150.7	155.2	160.0	164.8	169.7
TRAVEL		10.8	11.1	11.4	11.7	12.1
CONTRACTUAL		17.4	17.9	18.4	19.0	19.6
SUPPLIES		11.4	11.7	12.1	12.5	12.9
EQUIPMENT		17.0	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		207.8	195.9	201.9	208.0	214.3

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		207.8	195.9	201.9	208.0	214.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director

Phone: 465-3672

Division: Administrative Services

Date: January 30, 1989

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

Date: January 30, 1989

Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 20

This bill makes it a crime for two or more persons to "conspire" together to violate state or municipal laws regarding drugs and prostitution. The bill allows persons to be prosecuted for conspiracy, even though the crime that was the object of a conspiracy was neither attempted nor completed.

Given the limits set by the bill, and the broad authority provided under existing law for the prosecution of persons involved in drug trafficking, enforcement activities undertaken as a result of this bill will be complicated and expensive. The focus of enforcement actions taken under this bill will be on major narcotics rings.

Investigation and prosecution of large-scale drug cases is extremely time-consuming and labor intensive. Major narcotics rings are carefully planned and organized, and it requires at least the same degree of planning and organization to detect, investigate, infiltrate, and ultimately break the rings. A conspiracy law will not decrease the amount of work involved in pursuing drug traffickers, rather conspiracy prosecutions will require the investment of significant time and effort on the part of state prosecutors. In addition, a conspiracy law will not cure the problematic and expensive practice of granting separate trials to co-defendants.

A good example of the complexities involved in prosecuting drug traffickers in the single big drug case that the state was able to pursue in FY85 -- the "Black Gold" heroin ring in Anchorage. The case involved 29 separate individuals (most charged with selling heroin), almost all of whom were granted separate trials, thus creating 29 cases out of a single operation. The "Black Gold" investigation required the "full-time" (12 hours a day, 6 or 7 days a week) direction and legal assistance of two experienced prosecutors for over two months. In addition to obtaining over 25 search warrants, the prosecutors, on a daily (and sometimes hourly) basis, consulted with and guided the efforts of three teams of officers: a "surveillance" team varying from 10-20 officers who kept track of the members of the ring; a "buy" team of 4-8 officers working closely with informants to purchase narcotics; and an "investigation" team of 2-6 officers who compiled telephone records and other evidence in order to discover links between individuals and organizations.

Under a conspiracy law, the scope of enforcement authority would be expanded to include more persons involved in the ring, leading to larger and more complicated investigations and prosecutions. Considering the sophistication of narcotics traffickers, and the efforts that would be necessary to implement a conspiracy law, the Department of Law believes that it will need the dedicated services of at least a full-time attorney, a paralegal, and a secretary in the Anchorage District Attorney's Office.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 20

	<u>Atty IV</u>	<u>P/A II</u>	<u>Leg. Sec. I</u>	<u>Total</u>
71000	73.4	45.0	32.3	150.7
72000	5.4	5.4	-0-	10.8
73000	6.6	6.6	4.2	17.4
74000	4.2	4.2	3.0	11.4
75000	6.5	2.5	8.5	17.5
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Total	96.1	63.7	48.0	207.8

Costs beyond FY 90 include a 3% annual inflation factor, less one-time equipment costs.

Position Title Attorney IV		No. of Positions 1	Range/Step 24A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location EBA - Anchorage		Election District 8
Type of Expenditure		Amount		
1	2	3		
Salary	56,244			
Benefits	17,188			
Premium Pay				
Other				
Total Personal Services		73,432		
Travel		5,400		
Contractual		6,600		
Commodities		4,200		
Equipment		6,500		
Other				
Total Cost		96,132		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	96,132		
I-A Receipts	1006			
CIP Receipts	1061			
Other				
<p>Justification</p> <p>This is the first of three positions that will be needed to provide prosecution services of defendants who conspire to violate state laws regarding drugs and prostitution. Investigation and prosecution of large-scale drug trafficking rings is extremely time consuming and labor intensive and will require a minimum of one new attorney in addition to the drug prosecutor already provided through the federal anti-drug enforcement program. Allocation to the full-working level of Attorney IV for this position is recommended because of the seriousness of the crimes being prosecuted.</p>				

**P For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Third Judicial District

Page 1 of 3
 Revised Date

FY 90

Position Title Paralegal Assistant II		No. of Positions 1	Range/Step 16A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location EBA - Anchorage		Election District 8
Type of Expenditure		Justification		
1	2	This is the second of three positions that will be needed to provide prosecution services of defendants who conspire to violate state laws regarding drugs and prostitution. Investigation and prosecution of large-scale drug trafficking rings is extremely time consuming and labor intensive and will require the services of a skilled paraprofessional in the preparation of evidence. Allocation to the Paralegal Assistant II, full working level is recommended.		
		Amount		
		3		
Salary	32,424			
Benefits	12,562			
Premium Pay				
Other				
Total Personal Services		44,986		
Travel		5,400		
Contractual		6,600		
Commodities		4,200		
Equipment		2,500		
Other				
Total Cost		63,686		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	63,686		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Third Judicial District

Page 2 of 3
 Revised Date

FY 90

Position Title Legal Secretary I		No. of Positions 1	Range/Step 10A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location EBA - Anchorage		Election District 8
Justification				
This is the third of three positions that will be needed to provide prosecution services of defendants who conspire to violate state laws regarding drugs and prostitution. Investigation and prosecution of large-scale drug trafficking rings is extremely time consuming and labor intensive and generates substantial legal documentation, including: search warrants, subpoenas, motions, affidavits, and legal memoranda. Consequently, full-time secretarial services will be required. Allocation to the Legal Secretary I level is recommended in view of the heavy documentation load.				
Type of Expenditure		Amount		
1	2	3		
Salary	22,020			
Benefits	10,256			
Premium Pay				
Other				
Total Personal Services		32,276		
Travel		-0-		
Contractual		4,200		
Commodities		3,000		
Equipment		8,500		
Other				
Total Cost		47,976		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	47,976		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Third Judicial District.

Page 3 of 3
 Revised Date

FY 90

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to the crime of conspiracy... controlled substance."
 Sponsor: Sen. Faiks
 Requestor: Senate Judiciary

Agency Affected: Department of Law
 BRU: Prosecution
 Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 39	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		150.7	155.2	160.0	164.8	169.7
TRAVEL		10.8	11.1	11.4	11.7	12.1
CONTRACTUAL		17.4	17.9	18.4	19.0	19.6
SUPPLIES		11.4	11.7	12.1	12.5	12.9
EQUIPMENT		17.0	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		207.8	195.9	201.9	208.0	214.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		207.8	195.9	201.9	208.0	214.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard L. Pegues, Director
 Division: Administrative Services
 Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
 Agency: Department of Law

Phone: 465-3672
 Date: January 26, 1989
 Date: January 26, 1989

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

FISCAL NOTE

REQUEST:

Revision Date: _____
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CONTRACTUAL		17.4	17.9	18.4	19.0	19.6
SUPPLIES		11.4	11.7	12.1	12.5	12.9
EQUIPMENT		17.0	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		207.8	195.9	201.9	208.0	214.3

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		207.8	195.9	201.9	208.0	214.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 26, 1989
 Approved by Commissioner: Richard I. Pegues /FOR/
Grace Berg Schaible, Atty. Gen. Date: January 26, 1989
 Agency: Department of Law

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 16

This bill makes it a crime for two or more persons to "conspire" together to violate state laws regarding drugs. The bill allows persons to be prosecuted for conspiracy, even though the crime that was the object of a conspiracy was neither attempted nor completed.

Given the limits set by the bill, and the broad authority provided by existing law for the prosecution of persons involved in drug trafficking, enforcement activities undertaken as a result of this bill will be complicated and expensive. The focus of enforcement actions taken under this bill will be on major narcotics rings.

Investigation and prosecution of large-scale drug cases is extremely time-consuming and labor intensive. Major narcotics rings are carefully planned and organized, and it requires at least the same degree of planning and organization to detect, investigate, infiltrate, and ultimately break the rings. A conspiracy law will not decrease the amount of work involved in pursuing drug traffickers, rather conspiracy prosecutions will require the investment of significant time and effort on the part of state prosecutors. In addition, a conspiracy law will not cure the problematic and expensive practice of granting separate trials to co-defendants.

A good example of the complexities involved in prosecuting drug traffickers in the single big drug case that the state was able to pursue in FY85 -- the "Black Gold" heroin ring in Anchorage. The case involved 29 separate individuals (most charged with selling heroin), almost all of whom were granted separate trials, thus creating 29 cases out of a single operation. The "Black Gold" investigation required the "full-time" (12 hours a day, 6 or 7 days a week) direction and legal assistance of two experienced prosecutors for over two months. In addition to obtaining over 25 search warrants, the prosecutors, on a daily (and sometimes hourly) basis, consulted with and guided the efforts of three teams of officers: a "surveillance" team varying from 10-20 officers who kept track of the members of the ring; a "buy" team of 4-8 officers working closely with informants to purchase narcotics; and an "investigation" team of 2-6 officers who compiled telephone records and other evidence in order to discover links between individuals and organizations.

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CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 16

	<u>Atty IV</u>	<u>P/A II</u>	<u>Leg. Sec. I</u>	<u>Total</u>
71000	73.4	45.0	32.3	150.7
72000	5.4	5.4	-0-	10.8
73000	6.6	6.6	4.2	17.4
74000	4.2	4.2	3.0	11.4
75000	6.5	2.5	8.5	17.5
	<hr style="width: 50%; margin: 0 auto;"/>	<hr style="width: 50%; margin: 0 auto;"/>	<hr style="width: 50%; margin: 0 auto;"/>	<hr style="width: 50%; margin: 0 auto;"/>
Total	96.1	63.7	48.0	207.8

Costs beyond FY 90 include a 3% annual inflation factor, less one-time equipment costs.

Position Title Attorney IV		No. of Positions 1	Range/Step 24A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location EBA - Anchorage		Election District 8
Type of Expenditure		Amount		
1	2	3		
Salary	56,244			
Benefits	17,188			
Premium Pay				
Other				
Total Personal Services		73,432		
Travel		5,400		
Contractual		6,600		
Commodities		4,200		
Equipment		6,500		
Other				
Total Cost		96,132		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	96,132		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

Justification
This is the first of three positions that will be needed to provide prosecution services of defendants who conspire to violate state laws regarding drugs. Investigation and prosecution of large-scale drug trafficking rings is extremely time consuming and labor intensive and will require a minimum of one new attorney in addition to the drug prosecutor already provided through the federal anti-drug enforcement program. Allocation to the full-working level of Attorney IV for this position is recommended because of the seriousness of the crimes being prosecuted.

**Request For
New Position**

Agency Department of Law
BRU Prosecution
Component Third Judicial District

Page 1 of 3
Revised Date

FY 90

Position Title Paralegal Assistant II		No. of Positions 1	Range/Step 16A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location EBA - Anchorage		Election District 8
Justification				
This is the second of three positions that will be needed to provide prosecution services of defendants who conspire to violate state laws regarding drugs. Investigation and prosecution of large-scale drug trafficking rings is extremely time consuming and labor intensive and will require the services of a skilled paraprofessional in the preparation of evidence. Allocation to the Paralegal Assistant II, full working level is recommended.				
Type of Expenditure		Amount		
1	2	3		
Salary	32,424			
Benefits	12,562			
Premium Pay				
Other				
Total Personal Services		44,986		
Travel		5,400		
Contractual		6,600		
Commodities		4,200		
Equipment		2,500		
Other				
Total Cost		63,686		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	63,686		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Third Judicial District

Page 2 of 3
 Revised Date

FY 90

Position Title Legal Secretary I		No. of Positions 1	Range/Step 10A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location EBA - Anchorage		Election District 8
Justification				
This is the third of three positions that will be needed to provide prosecution services of defendants who conspire to violate state laws regarding drugs. Investigation and prosecution of large-scale drug trafficking rings is extremely time consuming and labor intensive and generates substantial legal documentation, including: search warrants, subpoenas, motions, affidavits, and legal memoranda. Consequently, full-time secretarial services will be required. Allocation to the Legal Secretary I level is recommended in view of the heavy documentation load.				
Type of Expenditure		Amount		
1	2	3		
Salary	22,020			
Benefits	10,256			
Premium Pay				
Other				
Total Personal Services		32,276		
Travel		-0-		
Contractual		4,200		
Commodities		3,000		
Equipment		8,500		
Other				
Total Cost		47,976		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	47,976		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Third Judicial District

Page 3 of 3
 Revised Date

FY 90

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 20
PUBLISH DATE: _____

FISCAL NOTE

REQUEST: _____

REVISION DATE: _____
TITLE: "An act relating to the
crime of conspiracy"
SPONSOR: Sen. Rodey
REQUESTOR: Sen. Judiciary Cmte

AGENCY: Department of Law
BRU: Prosecution
COMPONENTS: Third Judicial
District

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERS. SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND/BUILD.						
GRANTS/CLAIMS						
MISCELLANEOUS						
TOTAL		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Please see the attached analysis

PREPARED BY: _____

Janice O'Neil
Senator Jan Faiks, Chairman
Senate Judiciary Committee

DATE: February 20, 1989

PHONE No.: 465-4523

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 20
PUBLISH DATE: _____

FISCAL NOTE

REQUEST: _____

REVISION DATE: _____
TITLE: An act relating to the crime of conspiracy

AGENCY: Department of Law
BRU: Prosecution

SPONSOR: Sen. Rodey
REQUESTOR: Sen. Judiciary Cmte

COMPONENTS: Third Judicial District

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERS. SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND/BUILD.						
GRANTS/CLAIMS						
MISCELLANEOUS						
TOTAL		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Please see the attached analysis

PREPARED BY: _____

Janice O. Faiks
Senator Jan Faiks, Chairman
Senate Judiciary Committee

DATE: February 20, 1989
PHONE NO.: 465-4523

Continuation of Fiscal Note Analysis for SB 20

Passage of the conspiracy laws contained in SB 20 will give the state an additional tool to use when criminal behavior cannot be prosecuted under existing laws regulating drug sales or prostitution. Prosecution under SB 20 is not mandatory, and may take place at the state's discretion as circumstances warrant, generally as an adjunct to an investigation and prosecution already taking place under existing laws, using existing resources.

S B

26

JAN 25 1989

COPY TO R4Y

STATE OF ALASKA
THE LEGISLATURE

POLICE STATE CAPITOL
BUREAU ALASKA 99811
907 465 3830

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 25, 1989

SUBJECT: Amending the penalty for misdemeanor
joyriding (Senate Bill 26)

TO: Senator Lloyd Jones, Chair
Senate Transportation Committee

FROM: Jack Chenoweth
Legislative Counsel

The legislation imposes a mandatory minimum sentence for a first conviction for the offense of misdemeanor joyriding ("criminal mischief in the third degree") involving the taking of a propelled vehicle in which the damage or expenses are less than \$500. A first conviction for the offense is defined as a class A misdemeanor, with normal maximum penalties of a \$5000 fine and one year in jail. Under this bill, one convicted would face a mandatory sentence of

- imprisonment for a minimum of 72 hours;
- a minimum fine of \$250; and
- payment of restitution as the court may order.

The court would be precluded from suspending imposition or execution of sentence and would be precluded from admitting the convicted defendant to probation unless the minimum sentence was served.

In essence, the penalty incorporates the content of the penalty for first offense Driving While Intoxicated (AS 28.35.030(c)).

As we learned during last year's review of SB 497, although the Senate Bill 26 suggests a "go to jail" approach, under AS 33.30.151 - 33.30.161, the mandatory sentence required by the bill may be served in a correctional restitution center.

Senator Lloyd Jones
Page 2
January 25, 1989

The penalty for felony joyriding, involving damage to the vehicle of \$500 or more--a class C felony--is unchanged: a maximum fine of \$50,000 and maximum term of imprisonment of five years.

JC:lmb
L6/156



City of Petersburg
P. O. Box 320
Petersburg, Alaska 99833

February 29, 1988

Senator Lloyd Jones
Pouch V
Juneau, Alaska 99811

Dear Senator Jones:

A petition has been circulated by Petersburg residents calling for the crime of Criminal Mischief in the Third Degree (a Class A misdemeanor) (for vehicle theft) be increased to a felony offense category.

The Petersburg Police Chief has advised the City Manager that the District Attorney's office has been reluctant to charge persons stealing cars in Petersburg with Theft in the Second Degree, a C Felony, because one of the elements of that offense is that the person taking the vehicle has the intent to deprive the owner of the property indefinitely. In that Petersburg is on an island, the District Attorney's office feels that proving that element would be difficult or impossible and have elected to charge under the criminal Mischief statutes. Unless there is damage done over \$500 to the vehicle taken, Criminal Mischief statutes require that the person be charged with Criminal Mischief in the Third Degree, an A Misdemeanor.

It seems somewhat incongruent that a person in Petersburg can enter a home and take a \$600 VCR and be later apprehended and charged with Burglary in the Second Degree, a C Felony, and that another person can take a \$10,000 vehicle from the street or a driveway and when apprehended only be charged with Criminal Mischief in the Third Degree, an A Misdemeanor.

During 1987, registered owners reported ten vehicles stolen and the investigations into these thefts showed the registered owners suffered a property damage loss totaling \$481.30. These losses did not include losses such as inconvenience to the owners such as towing, etc. So far in 1988, the police department has had three vehicles reported stolen and property damage has amounted to \$15,771.72 which should result in one to two felony charges due to the excessive damages.

Most other states classify auto theft as a felony and with the increasing cost of vehicles and the inconvenience of such a loss, it seems appropriate that the State of Alaska increase the penalty and level of this offense so that it is consistent with the theft of other valuable property.

Sincerely,

Patricia Curtis
Jas.

Doug Barber, Mayor
City of Petersburg



Petersburg Vol. Fire Dept.

P.O. Box 75
Petersburg, Alaska 99833
Ph. 907-772-3355



Lloyd Jones
Alaska State Senate
P.O.Box V
State Capitol
Juneau, Alaska 99811

Dear Senator Jones;

We, of the Petersburg Volunteer Fire Department, are in accord with the proposed compromised legislation, on joy-riding. We feel that the person who takes an automobile without permission must have a deterrent, in order to make him think twice about it in the first place.

By making the punishment, a mandatory three days in jail, a minimum fine of Two Hundred and Fifty Dollars, and restitution to the vehicle owner, we feel that justice will have been served.

Thank you in your efforts to help us.

Sincerely,

Norm Fredricksen
Chief



City of Petersburg

Police Department

P.O. Box 328

Petersburg, Alaska 99833

(907) 772-3838

January 31, 1989

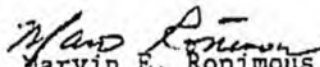
Senator Lloyd Jones
P.O. Box V
State Capital Building
Juneau, Alaska 99811

Dear Senator Jones:

The Petersburg Police Department is in support of the change in the joyriding law currently before the Senate.

We believe the compromise reached over last year's proposed legislation is excellent, and that what is currently before you will make a very workable, effective law.

Sincerely,


Marvin E. Ronimus
Acting Chief of Police

MER/ko



**National
Car Rental**

National Car Rental
Alaska Sales and Service, Inc.
1300 East Fifth Avenue
Anchorage, Alaska 99501
(907) 274-3695

1/29/89
Alaska State Legislature
Ray Matiashowski
Assistant to Senator Lloyd Jones
PO Box V
Juneau, Alaska 99811

Dear Mr. Matiashowski,

In regard to SB 26, Joyriding Legislation.

National Car Rental is the largest car rental in the State of Alaska. We are pleased and we do support SB 26 which amends the penalty of joyriding.

National can cite many cases in which our vehicles have been used for "joyriding" and we are then left helpless because of a lean joyride law.

We strongly urge a stiff sentence to those individuals who use an automobile for joyriding purposes. It costs everyone in the long run and it seems the person who is not affected is the joyrider himself.

Please do what you can to pass SB 26.

Sincerely yours,

Courtland E. Marchant
Courtland E. Marchant
General Manager
National Car Rental
also
President of CATRALA

Licensee
3730 Spenard Rd.
Anchorage AK 99517-2876
907 276 2855
Fax 907 279 1328

Out of Town Reservations
1-800-FOR-CARS



FAX TRANSMISSION COPY

DATE: 1-30-89
TO : Ray Matrasowski RE Senate Lloyd Jones Rm 9
Clair Floyd Capitol Bld.
FROM : Clair Floyd
REGARDING RE House Bill #26 Joyriding

THIS TRANSMISSION CONSISTS OF 5 PAGES IF YOU DID NOT
RECEIVE THE COMPLETE TRANSMISSION PLEASE CALL

(907) 276-2855

OFFICE HOURS OF 6AM TO 10PM ALASKA STANDARD TIME

THE CAR YOU WANT... AT A RATE YOU'LL LOVE



SUBCOMPACT
Dodge Colt or similar



COMPACT
Dodge Shadow or similar



MIDSIZE
Plymouth Reliant or similar



FULLSIZE 2-DOOR
Chrysler LeBaron Coupe or similar



FULLSIZE 4-DOOR
Dodge Dynasty or similar



LUXURY
Chrysler New Yorker or similar



MINI-VAN
Plymouth Voyager or similar



PASSENGER VAN
12 passengers
Dodge Van or similar

Licensee
3730 Scenic Dr
Anchorage, AK 99517-2675
907 276 8855
Fax 907 279 1325

Thrifty Car Rental
1-800-FOR-CARS



January 30, 1989

Attn: Senator Lloyd Jones

RE: BILL #26 JOYRIDING

Please accept my support for Senate Bill #26. I would like to show what has happened to me, because of the lax of the present law.

On December 1, 1986 the lock on my security fence was broken and 4 cars stolen by John Weber and friends. One 1987 Chrysler 5TH Avenue was torched a total loss of \$15000.00, one 1987 Chrysler 5TH Avenue wrecked a loss of \$7,500.00, one 1987 Plymouth Reliant left damaged stuck in the ice on Campbell Creek a loss of \$1,211.61, one 1986 Dodge Colt abandoned minor damage of \$10.

The prosecuting attorney in Anchorage would not prosecute, when these men were caught and admitted to the thefts. Because the "Jails are to full" the judge will let them go on account of the way the law reads.

You can see from the attached subpoena from Palmer's District Attorneys Office. We finally found someone who was willing to do something as Mr. Weber was involved in several separate thefts in that area.

We need some relief from these people who have no responsibility for damages they cause with and to a stolen vehicle. In my grandfather's days they hung horse thieves.

Sincerely,

A handwritten signature in cursive script that reads "Clair A. Floyd".

CLAIR A. FLOYD
Alaska Franchise Owner
Thrifty Car Rental

CAF:lah

License
2730 Stearns Rd
Anchorage, AK 99517-2575
207 376 2855

Out of Town Reservations
1-800-808-0888



March 28, 1988

Joe Alutius
Department of Corrections
809 Chugiak
Palmer, Ak. 99645

RE: Case # 86-108647

To whom it may concern,

The damage breakdown for the December 1, 1986 break in is as follows:

1982 Chrysler Fifth Avenue replaced the vehicle on fire. \$ 15,000.00

1987 Chrysler Fifth Avenue involved in a Hit and Run accident. \$ 7,500.00

1986 Plymouth Reliant found in Campbell Creek with car broke through ice. \$ 1,211.61

1986 Dodge Colt damaged fuse link when car found. \$ 10.00

Total loss amount* \$ 23,721.61

* This is the amount of repairs not accounting for interest on the money from the date of the repairs. Loss of use has not been included in these figures also.

The above damages can be documented with repair estimates or copies of the invoices on the total loss car.

All license plates were removed and the cars were being operated on Temporary License Plates.

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA AT PALMER

SUBPOENA TO APPEAR/PRODUCE

To: Darrell Floyd or designee
DOB:
Home Phone:
Home Address:

Other Info:
SSN:
Work Phone: 276-2855
Work Address: Thrifty Car Rental
3730 Spanard Rd, Anchorage

You are commanded to appear and testify in court or before the grand jury
RESTITUTION HEARING

Date: 6/27/88 Court Address: 268 E. Fireweed, Palmer, Alaska
Time: 3:30 p.m. Courtroom: superior

In the case of STATE v. JOHN WEBER Court No. 887-288/1555 CR

This subpoena shall remain in effect from the date you appear until you are granted leave to depart by the court or by an officer acting at the direction of the court. If you fail to appear and testify as ordered, a warrant may be issued for your arrest.

You are ordered to bring with you documentation/receipts of damage to vehicles

RUSH

This subpoena is issued at the request of the State of Alaska. You are entitled to witness fees from the District Attorney and (if you live more than 30 miles from the court) travel and living expenses. You must contact the District Attorney's Office before you travel if you want to be paid travel expenses. Failure to make prior contact may make you ineligible for payment of travel and witness fees.

Witnesses subpoenaed for court can call 745-8423 after 4:30 p.m. on weekdays (and all day on weekends and holidays) for taped witness information about trials scheduled the next business day. Both grand jury and court witnesses must call the District Attorney's office on the day before your scheduled appearance to find out whether you are still required to appear, the time to appear and any other instructions.

Telephone: 745-5027

Contact person: cindy belcher
Gene Cyrus, DA

District Attorney's Office
809 S. Chugach Street, Suite 3
Palmer, Alaska 99645
745-5027 8:00-4:30 weekdays
745-8423 recorded message after 4:30

Jackie Allen

Jackie Allen, Clerk of Court
Date: 6/24/88



RETURN

I served the above subpoena on _____
the person to whom it is addressed, on _____ in _____
Alaska. (date)

Signature Title Type or Print Name
CR-340 PALMER DA (7/87) (st.3) Crim. R. 17, Admin. R. 7



ALASKA STATE LEGISLATURE
 HOUSE OF REPRESENTATIVES
 RESEARCH AGENCY

P.O. Box Y, State Capitol
 Juneau, Alaska 99811-3100
 Mail Stop 3100
 (907) 465-3991

January 27, 1989

MEMORANDUM

TO: Representative Mike Miller
 ATTN: Gene Therriault
 FROM: Karla Hart *KH*
 Legislative Analyst
 RE: Motor Vehicle Theft in Alaska
 Research Request 88.213 Revised

You requested that House Research Memorandum 88.213, motor vehicle theft in Alaska, be updated to include 1987 figures (the latest available).

Motor Vehicle Theft in Alaska

There were 19,970 actual motor vehicle thefts, including autos, trucks and buses, and other vehicles, in Alaska between 1981 and 1986. Figures for 1988 are not yet available. Table 1 presents the number of thefts year by year.

Table 1
 Motor Vehicle Thefts

<u>Year</u>	<u>Total</u>	<u>Auto</u>	<u>Bus/Truck</u>	<u>Other</u>
1981	2,822	1,097	703	1,022
1982	2,544	991	623	930
1983	3,017	1,167	822	1,028
1984	3,039	1,322	794	923
1985	3,083	1,348	763	972
1986	3,032	1,319	702	1,011
1987	2,433	1,297	535	601
Total	19,970	8,541	4,942	6,487

The Department of Public Safety does not require that municipalities break down motor vehicle theft into categories, such as joyriding and grand auto theft. These data represent actual thefts; reported thefts which proved to be false or baseless are not included.

Representative Miller
January 27, 1989
Page 2

The number of people arrested for motor vehicle theft is broken down by year and by adults and juveniles (under 18 years of age). A breakdown of arrests by type of motor vehicle stolen is not available. Arrests for the years 1981 through 1987 are shown in Table 2.

Table 2
Arrests for Motor Vehicle Thefts

<u>Year</u>	<u>Adults</u>	<u>Juveniles</u>
1981	160	137
1982	172	146
1983	196	172
1984	153	156
1985	143	138
1986	146	154
1987	165	166
Total	1,135	1,069

Attached is information on motor vehicle thefts as reported in Crime in Alaska 1987, Uniform Crime Reporting, Department of Public Safety.

* * *

I hope this information is helpful. If you have questions, please call.

Attachment

M/V THEFTS

TREND

	<u>NUMBER OF OFFENSES</u>	<u>% CHANGE</u>	<u>RATE PER 100,000 % CHANGE</u>
1983	3056		
1984	3039	-0.6%	-2.9%
1985	3083	+1.4%	-0.8%
1986	3032	-1.7%	-2.9%
1987	2433	-19.8%	-19.2%

Motor vehicle theft is defined as the theft or attempted theft of a motor vehicle.

1987 SUMMARY

A total of 2433 motor vehicles were stolen in 1987. This is a 19.8% decrease compared to 1986.

Motor vehicle thefts accounted for 9.8% of the property crimes and 9.0% of the total crime index. Motor vehicle theft rate per 100,000 people was 452.2.

Automobile had the highest percentage of motor vehicle thefts with 53%, followed by trucks and buses with 22%, and other vehicles making up 25%.

Sixteen year-olds had 16% of the arrests made for motor vehicle thefts followed by 17 year-olds having 13%.

The most motor vehicle thefts occurred in March, 231, and November had the least, 136.

1987 STATEWIDE TOTALS
OFFENSES KNOWN TO POLICE

CLASSIFICATION OF OFFENSES	OFFENSES REPORTED OR KNOWN	UNFOUNDED FALSE OR BASELESS	NUMBER OF ACTUAL OFFENSES	TOTAL OFFENSES CLEARED BY ARREST OR EXCEPT	NUMBER OF CLEARANCES PERSONS UNDER 18
1. Criminal Homicide	TOTAL 56	1	55	39	
A. Murder & Nonneg Mansl	51		51	36	
B. Mansl By Negligence	5	1	4	3	
2. Forcible Rape	TOTAL 377	44	333	152	8
A. Rape By Force	303	41	262	117	8
B. Attempts To Commit Forc. Rape	74	3	71	35	
3. Robbery	TOTAL 380	4	376	94	6
A. Firearm	120	1	119	28	2
B. Knife Or Cutting Instrument	48		48	20	1
C. Other Dangerous Weapon	29	1	28	10	
D. Strong-Arm (Hands, Fist, Feet)	183	2	181	36	3
4. Assault	TOTAL 5,945	90	5,855	3,761	228
A. Firearm	415	8	407	255	15
B. Knife Or Cutting Instrument	298	2	296	198	14
C. Other Dangerous Weapon	360	3	357	210	14
D. Hands, Fist, Feet - aggravated	521	12	509	330	23
E. Other Assaults - simple	4,351	65	4,286	2,768	161
5. Burglary	TOTAL 5,008	75	4,933	699	276
A. Forcible Entry	3,188	38	3,150	467	171
B. Unlawful Entry-No Force	1,510	34	1,476	201	89
C. Attempted Forcible Entry	310	3	307	31	15
6. Larceny - Theft (Except Motor Veh)	TOTAL 17,637	239	17,398	4,097	1,397
7. Motor Vehicle Theft	TOTAL 2,679	246	2,433	465	128
A. Autos	1,464	167	1,297	293	74
B. Trucks And Buses	603	68	535	75	26
C. Other Vehicles	612	11	601	97	28
8. Arson	TOTAL 233	3	230	35	7
GRAND TOTAL	32,315	702	31,613	9,342	2,050

Officers Killed or Assaulted
Killed-Felony 0 Killed-Accident 0 Assaulted 207

1987 STATEWIDE TOTALS
PROPERTY STOLEN BY CLASSIFICATION

CLASSIFICATION OF OFFENSES	NUMBER OF ACTUAL OFFENSES	VALUE OF PROPERTY STOLEN
1. Murder/Nonneg Mansl	51	\$ 800
2. Forcible Rape (TOTAL)	333	\$ 10,835
3. Robbery		
A. Highway (Street, Alleys, Etc.)	149	\$ 76,801
B. Commercial House (Ex. C,D,F)	73	73,077
C. Gas or Service Station	16	3,300
D. Chain Store	42	7,678
E. Residence (Anywhere on Prem)	54	24,289
F. Bank	3	33,222
G. Miscellaneous	39	3,102
TOTAL ROBBERY	376	\$ 221,469
4. Assault - Not Applicable		\$
5. Burglary - Breaking or Entering		
A. Residence (Dwelling)		
1. Night (6 p.m. - 6 a.m.)	719	\$ 604,346
2. Day (6 a.m. - 6 p.m.)	754	1,349,010
3. Unknown	1,400	2,276,323
B. Non-Residence (store, off, etc.)		
1. Night (6 p.m. - 6 a.m.)	739	591,577
2. Day (6 a.m. - 6 p.m.)	272	319,229
3. Unknown	1,049	1,227,418
TOTAL BURGLARY	4,933	\$ 6,367,903
6. Larceny - Theft (Except Motor Veh)		
A. \$200 and over	5,968	\$ 7,932,803
B. \$50 to \$200	3,960	433,356
C. Under \$50	7,470	84,940
TOTAL LARCENY	17,398	\$ 8,451,099
7. Motor Vehicle Theft	2,433	\$ 9,590,899
GRAND TOTAL ALL		\$ 24,643,005
6X. Nature of Larcenies under 6		
A. Pocket - picking	70	\$ 45,477
B. Purse - snatching	48	6,831
C. Shoplifting	4,220	212,486
D. From Motor Vehicles	2,925	1,279,376
E. Motor Vehicle Parts and Acc.	1,271	563,206
F. Bicycles	1,351	268,646
G. From Buildings (except C & H)	2,998	1,552,669
H. From any Coin-Op Machines	95	11,825
I. All Other	4,420	4,510,583
TOTAL LARCENIES	17,398	\$ 8,451,099
7X. Motor Vehicles Recovered		
A. Number Stolen Locally & Recovered Locally	1,662	
B. Number Stolen Locally & Recovered Other Jurisdictions	146	
C. Total Locally Stolen Motor Vehicles Recovered	1,808	
D. Number Stolen Out of Town, Recovered Locally	6	

M/V THEFT ARRESTS - 1987

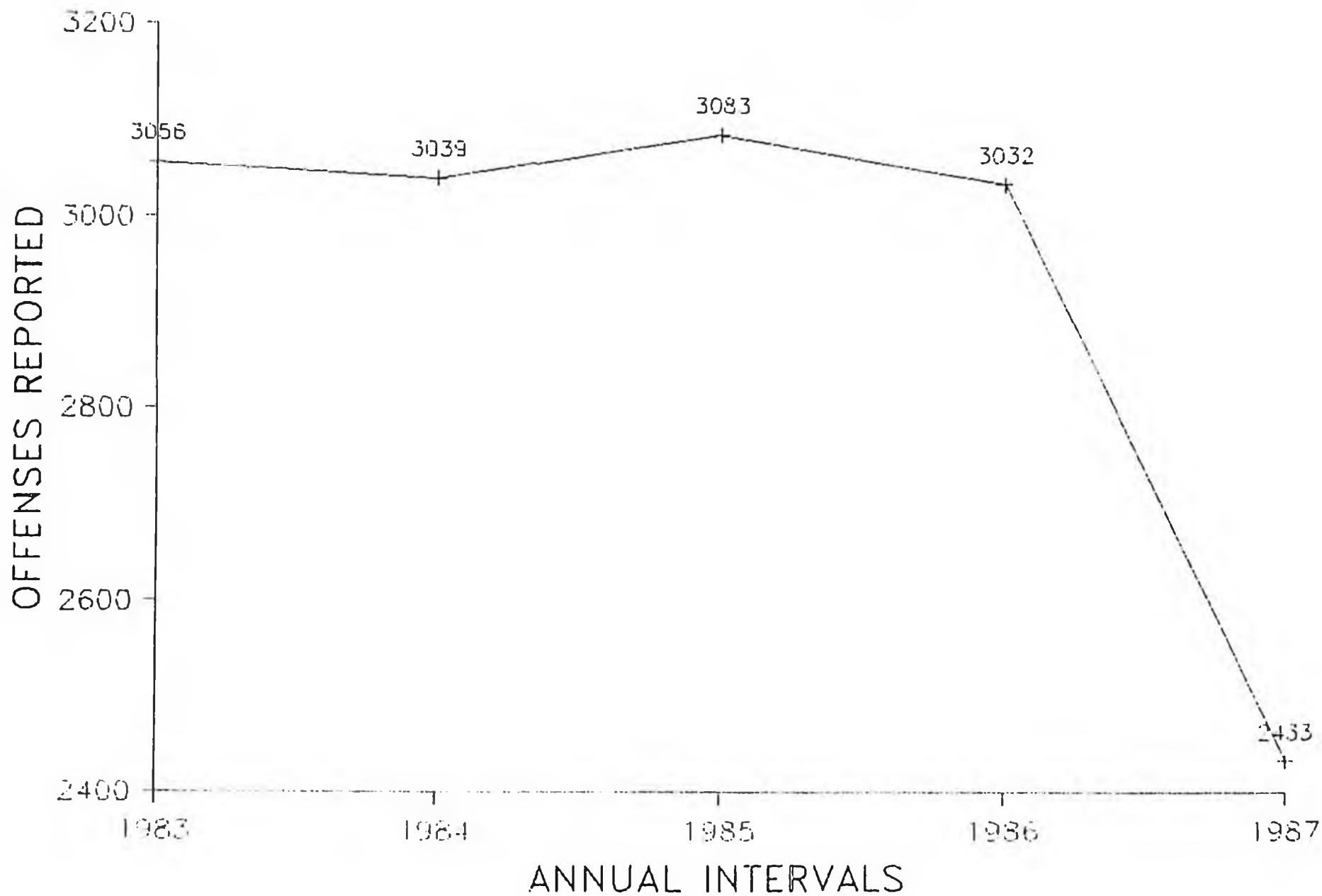
12 and under	M	14
	F	1
13-14	M	21
	F	8
15	M	19
	F	7
16	M	46
	F	8
17	M	34
	F	8
18	M	29
	F	0
19	M	20
	F	0
20	M	15
	F	1
21	M	9
	F	1
22	M	13
	F	0
23	M	10
	F	1
24	M	9
	F	1
25-29	M	18
	F	3
30-34	M	16
	F	3
35-39	M	6
	F	5
40-44	M	5
	F	0

M/V THEFT ARRESTS - 1987 (cont.)

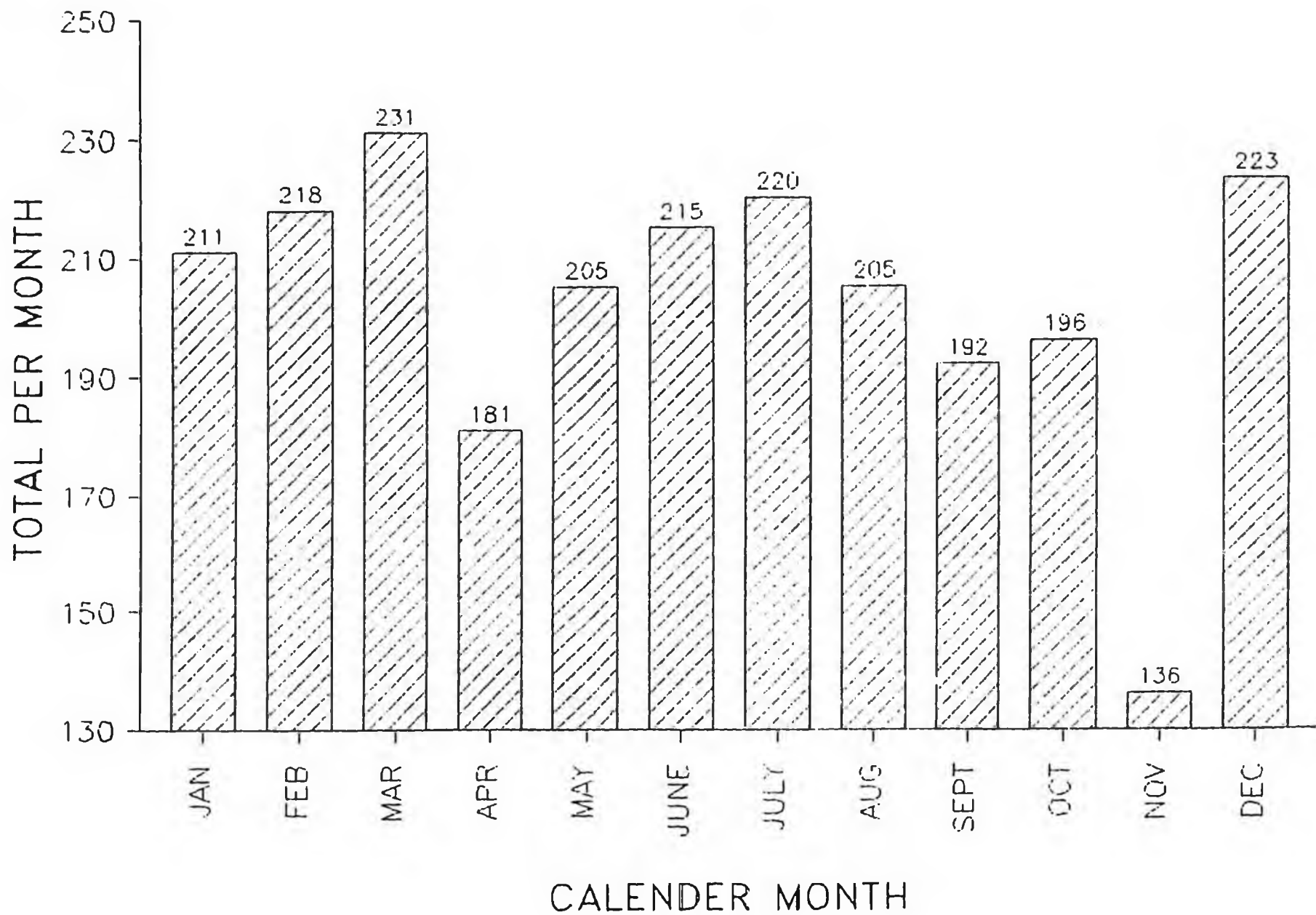
45-49	M	0
	F	0
50-54	M	0
	F	0
55-59	M	1
	F	0
60-64	M	0
	F	0
65 and over	M	0
	F	0
TOTAL	M	284
	F	47
White		215
Black		20
Indian		92
Asian		4

MOTOR VEHICLE THEFT TREND

1983 through 1987

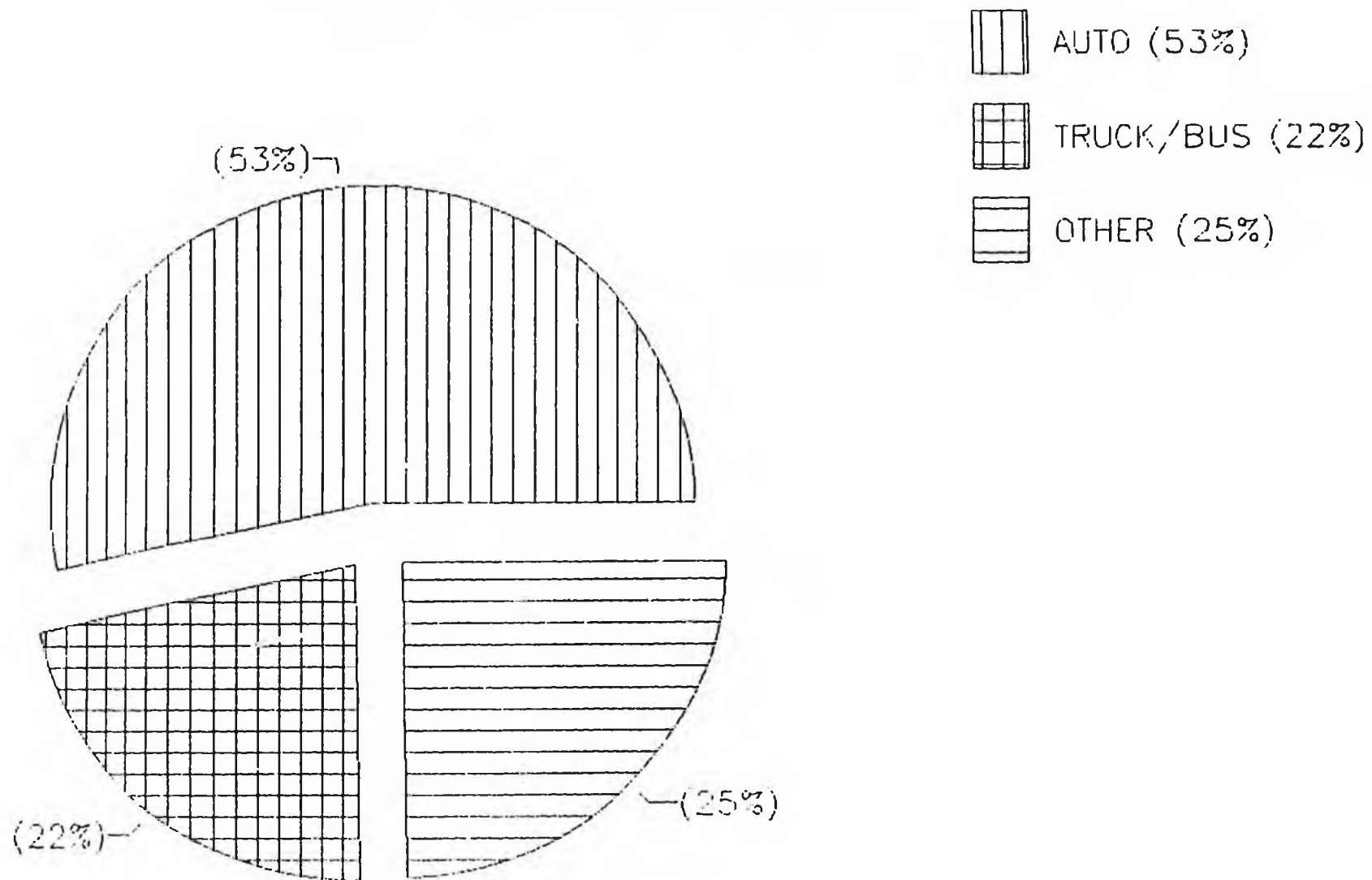


MOTOR VEHICLE THEFT BY MONTH 1987



MOTOR VEHICLE THEFTS 1987

PERCENTAGE DISTRIBUTION



damaged and is not required to know that the damage exceeds \$500 in value in order to be liable under this section. *Ortberg v. State, Ct. App. Op. No. 792* (File No. A-1863), 751 P.2d 1368 (1988).

Conviction and sentence upheld. — See *Andrejko v. State, Ct. App. Op. No.*

444 (File No. A-205), 695 P.2d 246 (1985).

Quoted in *Shewey v. State, Ct. App. Op. No. 723* (File No. A-1924), 739 P.2d 196 (1987).

Cited in *Crouse v. State, Ct. App. Op. No. 704* (File No. A-1800), P.2d (1987).

Sec. 11.46.484. Criminal mischief in the third degree. (a) A person commits the crime of criminal mischief in the third degree if, having no right to do so or any reasonable ground to believe the person has such a right

(1) with intent to damage property of another, the person damages property of another in an amount of \$50 or more but less than \$500;

(2) the person drives, tows away, or takes the propelled vehicle of another;

(3) having custody of a propelled vehicle under a written agreement with the owner of the vehicle that includes an agreement to return the vehicle to the owner at a specified time, the person knowingly retains or withholds possession of the vehicle without the consent of the owner for so long a period beyond the time specified as to render the retention or possession of the vehicle an unreasonable deviation from the agreement;

(4) the person tampers with a fire protection device in a building that is a public place;

(5) the person knowingly accesses a computer, computer system, computer program, computer network, or part of a computer system or network;

(6) the person uses a device to descramble an electronic signal that has been scrambled to prevent unauthorized receipt or viewing of the signal unless the device is used only to descramble signals received directly from a satellite or unless the person owned the device before September 18, 1984; or

(7) the person knowingly removes, relocates, defaces, alters, obscures, shoots at, destroys, or otherwise tampers with an official traffic control device or damages the work upon a highway under construction.

(b) Except as provided in (c) of this section, criminal mischief in the third degree is a class A misdemeanor.

(c) A person convicted under (a)(2) of this section is guilty of a class C felony if, within the preceding seven years, the person was convicted under

(1) the provisions of (a)(2) of this section;

(2) former AS 28.35.010;

- (3) the provisions of AS 11.46.482(a)(4);
 (4) an offense involving the theft of a propelled vehicle under AS 11.46.120 — 11.46.140; or
 (5) a law or ordinance of this or another jurisdiction with elements substantially similar to those of the offenses described in (1) — (4) of this subsection. (§ 4 ch 166 SLA 1978; am § 1 ch 18 SLA 1979; am §§ 7, 8 ch 143 SLA 1982; am § 2 ch 79 SLA 1984; am § 2 ch 114 SLA 1984; am § 1 ch 15 SLA 1985; am § 2 ch 52 SLA 1988)

Revisor's notes. — Paragraph (6) of subsection (a) of this section was enacted as paragraph (a)(5). Renumbered in 1994. Also, minor word changes were made in subsection (a) in 1984.

Effect of amendments. — The first 1984 amendment, in subsection (a), added paragraph (5) and made related technical changes in paragraphs (3) and (4).

The second 1984 amendment, in subsec-

tion (a), deleted "or" at the end of paragraph (3) and added paragraph (6).

The 1985 amendment rewrote subsection (c).

The 1988 amendment, in subsection (a), substituted "or part of a computer system or network" for "or any part of a computer system or network; or" in paragraph (5), added "or" at the end of paragraph (6), and added paragraph (7).

NOTES TO DECISIONS

Lesser included offense of robbery. — Under the cognate approach, joyriding was a lesser included offense of robbery, since an element of robbery is the unauthorized taking or attempted taking of property; and joyriding is the unauthorized taking of a vehicle. *Minano v. State*, Ct. App. Op. No. 420 (File Nos. 7812, 7868), 690 P.2d 28 (1984), rev'd on other grounds, Sup. Ct. Op. No. 3006 (File No. S-736), 710 P.2d 1013 (1985).

Joyrider characterized as worst offender. — The district court judge was not clearly mistaken in characterizing a defendant as a worst offender, and in imposing the maximum sentence of one year for third-degree criminal mischief (joyriding). Despite the limited period of time in which defendant committed the offenses,

the defendant's record, coupled with the especially serious nature of the particular joyriding offense, i.e., that it was committed in order to perpetrate a felony, justified the sentence imposed. *Plant v. State*, Ct. App. Op. No. 640 (File No. 7734/A-37), 724 P.2d 536 (1986).

Quoted in *Shewey v. State*, Ct. App. Op. No. 723 (File No. A-1924), 739 P.2d 196 (1987).

Stated in *Shoemaker v. State*, Ct. App. Op. No. 605 (File No. A-1011), 716 P.2d 391 (1986).

Cited in *Plant v. State*, Ct. App. Op. No. 640 (File No. 7734/A-37), 724 P.2d 536 (1986); *Ortberg v. State*, Ct. App. Op. No. 792 (File No. A-1863), 751 P.2d 1368 (1988); *Jerrel v. State*, Ct. App. Op. No. 815 (File No. A-1627), P.2d (1988).

Sec. 11.46.487. Forfeiture of property upon conviction. Firearms and other personal property, except a motor vehicle, used in aid of a violation of AS 11.46.460, 11.46.462, or 11.46.484(a)(7) may be forfeited to the state upon conviction of the offender for the crime. (§ 3 ch 52 SLA 1988)

Sec. 11.46.490. Definitions. In AS 11.46.400 — 11.46.490, unless the context requires otherwise,

- (1) "highway" has the meaning given in AS 19.45.001;
- (2) "motor vehicle" has the meaning given in AS 28.40.100;

ALASKA PEACE OFFICERS ASSOCIATION

State APOA Office • P.O. Box 240108 • Anchorage, AK 99524-0108 • (907) 376-5481

January 31, 1989

Senator Lloyd Jones
Alaska State Legislature
Pouch V
Juneau, Alaska

Dear Senator Jones,

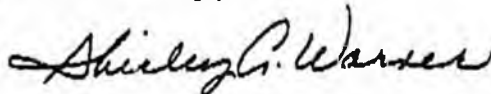
The Alaska Peace Officers Association and the Alaska Association of Chiefs of Police are very much in favor of Senate Bill 26, amending the penalty for joyriding.

When the bill was introduced, and passed, a couple of years ago making a second conviction of joyriding a felony we had expressed a very real concern. That concern was that so many times a first time offender is given a suspended imposition of sentence; no record is made on the first offense; and the offender could realistically become a repeat offender with no deterrence from this act.

This bill would alleviate that from ever occurring. The Anchorage Police Department receives 1,500 cases per year which fit under the statute of Criminal Mischief in the Third Degree. Approximately 85% of these are repeat offenders.

There are many cases in which an offender steals one car; leaves it in the spot of the second car they steal; and on and on. We frequently handle cases where cars worth \$20,000 or more are stolen. Since it is a misdemeanor the offender is merely given a suspended imposition of sentence. Thefts in these amounts is a Class C felony and have been recognized for their seriousness. This amendment will certainly send a clear message that we are serious about the theft of our citizens' vehicles and create a stronger deterrent for the true first time offender.

Sincerely,



Shirley A. Warner
President, APOA



Duane S. Udland
Vice-President, AACP



EXECUTIVE DIRECTOR

M. James Messick

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Mike Chapman

Valdez
John Nealon

Ketchikan
LeRoy Mestas

Petersburg
Scott Eddy

AVIS RENT A CAR SYSTEM

BOX 190028, ANCHORAGE, ALASKA 99519-0028

(907) 243-4300



LICENSED

February 1, 1989

The Honorable Senator Jones
P.O. Box V
Juneau, Alaska 99811

Dear Senator Jones:

AVIS/ALASKA RENT A CAR would like to take this opportunity to express our support of Senate Bill 26 (increasing the penalty for "joyriding" in the State of Alaska).

We are sure our experience with stolen vehicles are similar to many - not only to other businesses but also to the general public. Frustration and a sense of helplessness is felt each time one of our vehicles is involved in a "joyriding" incident. Frustration because the vehicle is usually returned to our inventory damaged from abuse; a sense of helplessness because it is extremely hard to obtain restitution; and knowing that the people involved will walk away with barely a slap on the wrist even though in many instances the perpetrators had no intention of ever returning the vehicle.

For many people an automobile is their largest investment. The average cost of a new automobile has reached \$15,000.00. This is a lot of money. People are sitting in jail for stealing far less.

The time has come to act on this. We believe by increasing the penalty for the unauthorized taking of a vehicle there would be a clear message to would-be thieves that the State of Alaska is getting tough on crime.

Cordially,

AVIS/ALASKA

A handwritten signature in black ink, appearing to read "Gary Zimmerman", written over a circular stamp.

Gary Zimmerman
Director of Operations

:cm



PRACTICAL[®]
used car rental

2/1/89

Senator Lloyd Jones
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: Joyriding Legislation

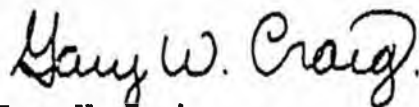
Dear Senator Jones:

As owner and Manager of a Car Rental Agency in Anchorage, Alaska,
do support your efforts to strengthen the Joyriding Legislation.

On many occasions we have reported this instance to the local
authorities; but complaints go to naught. Last year, 1988, on three
different occasions, automobiles were taken from our lot on a "joyride"
we reported as stolen but were not able to prosecute, only if we wanted
to file a civil suit at our expense.

Please help us all in the Rental Business.

Regards,



Gary W. Craig
Owner
Practical Used Car Rental

BILL NO: SB 26

DATE: January 30, 1989

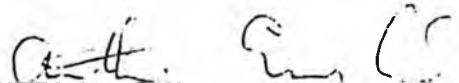
TITLE: "An Act amending the penalty for the crime of criminal mischief in the third degree involving the unauthorized taking of a propelled vehicle."

CONTACT: Gayle A. Horetski
Deputy Commissioner
465-4322

DEPARTMENT OF
PUBLIC SAFETY

This bill would require a mandatory minimum sentence of three days in jail and a \$250 fine for a first offense "joy-riding" conviction. (Second and subsequent offenses are felonies.) This is the same mandatory minimum sentence imposed upon first offense drunk drivers.

The Department of Public Safety takes no position on this bill.



Arthur English
Commissioner

ALASKA STATE LEGISLATURE

While in Ketchikan
352 Front Street
Ketchikan, AK 99901
907-225-9675



While in Juneau
P.O. Box V
Juneau, AK 99811
907-465-3743

Senator Lloyd Jones

MEMORANDUM

TO: Senator Jan Faiks, Chairman
Senate Judiciary Committee

FROM: Senator Lloyd Jones *LFJ*

DATE: February 2, 1989

SUBJECT: Senate Bill 26, relating to the crime of joyriding

Senate Bill 26 strengthens the penalty associated with the first time offense of motor vehicle theft. This bill was developed in response to requests from around the State. Under current law a thief going into a home and stealing a microwave oven worth \$600 will be charged with a felony, and yet the same person can take a \$15,000 vehicle and be let off with a misdemeanor, often with no penalty whatsoever.

SB 26 imposes a mandatory minimum sentence for the misdemeanor offense of joyriding. While the crime remains a misdemeanor, the mandatory jail time and fine will provide a greater deterrent effect. The bill also calls for restitution to be paid to the victim. This penalty provision was worked out during extensive hearings on a duplicate bill in the Senate Transportation Committee last year.

Thank you for hearing SB 26. I believe it is a law which will have a very practical, positive impact on crime in our State.

ANCHORAGE OFFICE

THE ENSERCH CENTER
550 WEST SEVENTH AVENUE, SUITE 1200
ANCHORAGE, ALASKA 99501
PHONE: (907) 277-6693
TELEX: 090-26-486
TELECOPY: 907-279-1959

**ROBERT B. BAKER
MICHAEL T. THOMAS
LEROY J. BARKER
**L. G. BERRY
HAROLD E. SNOW, JR.
JAMES K. BARNETT
**JULIA B. BOCKMON
JOSEPH D. DARNELL
JOHN R. FITZGERALD
GREGORY G. SILVEY
SUSAN M. WEST
**CARL W. WINNER

WASHINGTON OFFICE

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SIXTH FLOOR
WASHINGTON, D.C. 20007
PHONE: (202) 333-4400
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STEVEN W. SILVER
BRADLEY D. GILMAN

ROBERTSON, MONAGLE & EASTAUGH

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
JUNEAU, ALASKA 99802

February 1, 1989

JUNEAU OFFICE

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240 MAIN STREET
P.O. BOX 21211
JUNEAU, ALASKA 99802
PHONE: (907) 586-3340
TELEX: 099-45-376
TELECOPY: 907-586-6818

OF COUNSEL
F.O. EASTAUGH

ROYAL ARCH GUNNISON (1873-1918)
R. E. ROBERTSON (1885-1961)
M. E. MONAGLE (1902-1985)
JAMES F. CLARK
PAUL M. HOFFMAN
D. ELIZABETH CUADRA**
ROBERT P. BLASCO
MARY A. NORDALE
THOMAS J. SLAGLE

ADMITTED IN WASHINGTON, D.C.
AND ALASKA

ALL OTHERS ADMITTED
IN ALASKA

The Honorable Jan Faiks, Chair
Senate Judiciary Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

RE: Senate Bill 26

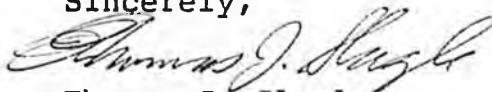
Dear Senator Faiks:

The American Insurance Association (AIA) represents more than 190 companies writing property/casualty insurance in the United States, and has a continuing concern over the impact of automobile theft on the cost of providing insurance. The AIA supports legislation which will reduce the cost of providing automobile theft coverage.

According to the Insurance Information Institute (III), motor vehicle thefts in the United States increased about 5% from 1986 to 1987. The III reports there were 2,553 motor vehicle thefts in Alaska in 1987, with an estimated dollar value of \$10,245,189.

SB 26 increases the criminal sanctions for auto theft. The AIA supports this legislation in the belief that increased penalties may decrease the number of automobile thefts.

Sincerely,



Thomas J. Slagle
Alaska Council of the American
Insurance Association

TJS:mmg/001

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act amending the penalty...
 ...taking of a propelled vehicle."
 Sponsor: Sen. Jones
 Requestor: Sen. Jones

Agency Affected: Department of Law
 BRU: Prosecution
 Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 26, 1989
Richard I. Pegues / FOR /
 Approved by Commissioner: Grace Berg Schaible, Atty. Gen. Date: January 26, 1989
 Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 26

This bill amends AS 11.46.484 by adding a new subsection that imposes a mandatory minimum sentence for joyriding of a term of imprisonment of not less than 72 hours, a fine of not less than \$250, and restitution. These sentencing provisions will not have a fiscal impact on the Department of Law. It should be noted that some additional prosecutor time will be needed because defendants can be expected to offer a more vigorous defense in the face of a mandatory jail term. Prosecutor workload in most of the state's district attorney offices is currently at or near the saturation point. Consequently, adoption of this bill and other similar measures, that do not individually have a fiscal impact, will cumulatively diminish the department's ability to handle more serious offenses. Lastly, the bill could have a substantial impact on the Department of Corrections.

S B

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THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
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FILE

DIVISION OF ELECTIONS
P.O. BOX AF
JUNEAU, ALASKA 99811-9974

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UNITED STATES



BUSINESS REPLY MAIL

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<input type="checkbox"/> Purged (Date) _____	<input type="checkbox"/> SW Only			
<input type="checkbox"/> Deleted (Date) _____	<input type="checkbox"/> SW/S/J			
<input type="checkbox"/> Count Full	<input type="checkbox"/> SW/S			
<input type="checkbox"/> No Count	<input type="checkbox"/> SW/J			
REJECT CODES	<input type="checkbox"/> All but DC			

VOTER OATH

I declare that I am a citizen of the United States, and have been a resident of Alaska for at least 30 days. I have not requested a ballot from any other state and am not voting in any other manner in this election. I have not claimed to be a resident of any other state for any purpose during the last 30 days. If I had this oath attested to by witnesses other than an authorized official, it is because no official empowered to administer an oath was available. I swear under penalty of perjury that the foregoing is true.

1. My Permanent Alaskan Residence Address is: _____

CITY STATE AK ZIP

(DO NOT use P.O. Box, PSC Box, Rural Route #. You must use street address, plat#, legal description, or other physical location description in Alaska. If the address you provide is different than that appearing on your current voter record, your eligibility to vote in this election will be based on the new information you have provided.)

2. Provide at least one of the following for identification purposes:

Vote # _____ Birthdate _____

Social Security # _____

3 X _____

(VOTER SIGNATURE—FAILURE TO SIGN WILL RESULT IN YOUR BALLOT NOT BEING COUNTED.)

WITNESSING AFFIDAVIT

OPTION 1: This certificate may be executed before an official qualified to administer oaths. The following persons are qualified: Notary Public; U.S. Postmaster or authorized postal clerk; Commissioned Officer of the Armed Services; Judge; Justice; Magistrate; Clerk of the Court; employees of the Alaska Division of Elections or designated absentee voting official.

Subscribed and sworn to before me this _____ day of _____, 19 _____,

Time _____, at (City/State or Country) _____

Attesting Witness _____

Title (IF ALASKA NOTARY AFFIX SEAL) _____

OPTION 2: If no authorized official is reasonably available, you may have the certificate witnessed by two persons over the age of 18.

Witness Affidavit: By signing below, I attest that to the best of my knowledge the voter voting this ballot is the person he or she purports to be, and that the voter oath was subscribed and sworn to before me.

Signature _____ Signature _____

Date _____ at (City/State or Country) _____

