

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
6905 HOUSE JUDICIARY

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March 5, 1991

Judiciary Committee
 Alaska State Legislature
 P.O. Box V
 Juneau, Alaska 99811

Dear Judiciary Committee:

We, at Langdon Clinic, support licensure for Marriage and Family Therapists and urge you to support HB 18. We believe it to be in the best interest to the public and to the mental health profession by having well-trained and qualified professionals.

Sincerely,

Randall G. Jones, M.A.
 Vice President

RGJ/cs

 FAX TRANSMITTAL MEMO
 TO: Judiciary Committee
 DEPT: _____ FAX #: 465-2297
 FROM: Langdon Clinic PHONE: 561-1361
 CO: _____ FAX #: 561-8646
 Post-It® brand fax transmittal memo 7671

NO. OF PAGES
1

FISCAL NOTE

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

BILL NO. HB 18

Revision Date: February 6, 1991 Department Affected: Commerce & Economic Dvlp.
 Title: Regulating the practice of marital and family therapy;.... BRU: Occupational Licensing
 Component: Administration
 Sponsor: Reps. Gruenberg and Carney
 Requestor: House HESS COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	3.6	3.6	3.6	3.6	3.6	3.6
TRAVEL	19.7	16.5	11.6	11.6	11.6	11.6
CONTRACTUAL	10.7	10.7	10.7	10.7	10.7	10.7
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	35.0	31.8	26.9	26.9	26.9	26.9

CAPITAL	0	0	0	0	0	0
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REVENUE	24.0	0	24.0	0	24.0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	11.0	31.8	2.9	26.9	2.9	26.9
FEDERAL FUNDS	0	0	0	0	0	0
OTHER GF/PR	24.0	0	24.0	0	24.0	0
TOTAL	35.0	31.8	26.9	26.9	26.9	26.9

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) HB 18 establishes a five-member Board of Marital and Family Therapy to establish examination, training and education requirements for entry into the profession, and to issue licenses to qualified individuals. Information on file indicates there are approximately 40 practitioners who would be affected by this legislation upon passage.

Prepared By: Barbara Gabier, Licensing Supervisor Phone: 465-3262
 Division: Occupational Licensing Date: February 6, 1991

Approved by Commissioner: Glenn A. Olds
 Agency: Department of Commerce & Economic Development Date: February 6, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION OF FISCAL NOTE ANALYSIS - HB 18

This fiscal note represents the cost of licensing marital and family therapists with a five-member board and an estimate of 40 practitioners who would seek and qualify for licensure. Costs of the program are projected based on the number of licensees and mandates in the bill. Therefore, costs associated with the marital and family therapy licensing program are projected as follows:

Personal Services: \$ 3.6

To provide administrative staff support.

Travel: \$ 19.7

In FY 92, this funding will provide for four face-to-face meetings, two in Anchorage and two in Juneau, assuming two members are from the Anchorage area, two from Juneau, one from Fairbanks; and three division staff (Director, Licensing Examiner, and Regulations Specialist) to attend each meeting.

In FY 93, funding provides for three board meetings and travel to administer the licensing examination in various locations throughout the State. (\$16.5)

In FY 94 forward, the licensing program will have been in operation for two years, and therefore, require fewer meetings to conduct its business. The number of board meetings is reduced to two meetings each year. This funding also provides for travel to administer the licensing examination in various locations. (\$11.6)

Contractual: \$ 10.7

This funding provides for printing, advertising, postage and communication costs.

Supplies: \$ 1.0

Funding will provide standard office supplies.

Grand Total: \$ 35.0

REVENUE:

The revenues are based on 40 practitioners paying a licensing fee of \$300 per year. Because licenses are issued on a biennial cycle, revenues are doubled every other year. As indicated, 40 practitioners will not support a licensing program with a five-member board unless licensees are willing to pay incredibly high annual licensing fees. As an alternative, the licensing program may have to be supplemented by general funds or fees from other licensing areas

AS 08.01.065(c), Fees established by regulation provide that the "department may establish a fee that is less than the cost of the activity for which the fee is charged if the department determines that it is not reasonable to impose the full cost of the activity on the applicant or licensee."

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 18

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: Regulating the practice of BRU: Occupational Licensing
marital and family therapy; Component: Administration
 Sponsor: Reps. Gruenberg and Carney
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CONTRACTUAL	10.7	10.7	10.7	10.7	10.7	10.7
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
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LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	35.0	31.8	26.9	26.9	26.9	26.9

CAPITAL	0	0	0	0	0	0
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REVENUE	12.0	0	12.0	0	12.0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	23.0	31.8	14.9	26.9	14.9	26.9
FEDERAL FUNDS	0	0	0	0	0	0
OTHER GF/PR	12.0	0	12.0	0	12.0	0
TOTAL	35.0	31.8	26.9	26.9	26.9	26.9

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) HB 18 establishes a five-member Board of Marital and Family Therapy to establish examination, training and education requirements for entry into the profession, and to issue licenses to qualified individuals. Information on file indicates there are approximately 40 practitioners who would be affected by this legislation upon passage.

Prepared By: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: February 1, 1991
 Approved by Commissioner: Glenn A. Olds
 Agency: Department of Commerce & Economic Development Date: February 1, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION OF FISCAL NOTE ANALYSIS - HB 18

This fiscal note represents the cost of licensing marital and family therapists with a five-member board and an estimate of 40 practitioners who would seek and qualify for licensure. Costs of the program are projected based on the number of licensees and mandates in the bill. Therefore, costs associated with the marital and family therapy licensing program are projected as follows:

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Travel: \$ 19.7

In FY 92, this funding will provide for four face-to-face meetings, two in Anchorage and two in Juneau, assuming two members are from the Anchorage area, two from Juneau, one from Fairbanks; and three division staff (Director, Licensing Examiner, and Regulations Specialist) to attend each meeting.

In FY 93, funding provides for three board meetings and travel to administer the licensing examination in various locations throughout the State. (\$16.5)

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Contractual: \$ 10.7

This funding provides for printing, advertising, postage and communication costs.

Supplies: \$ 1.0

Funding will provide standard office supplies.

Grand Total: \$ 35.0

REVENUE :

The revenues are based on 40 practitioners paying a licensing fee of \$150 per year. Because licenses are issued on a biennial cycle, revenues are doubled every other year. As indicated, 40 practitioners will not support a licensing program with a five-member board unless licensees are willing to pay incredibly high annual licensing fees. As an alternative, the licensing program may have to be supplemented by general funds or fees from other licensing areas.

AS 08.01.065(c), Fees established by regulation provide that the "department may establish a fee that is less than the cost of the activity for which the fee is charged if the department determines that it is not reasonable to impose the full cost of the activity on the applicant or licensee."

**THE FOLLOWING PAGES
WERE TREATED AS A UNIT
IN THE ORIGINAL FILE**

Alaska State Legislature

3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561-2038



During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4993

Senator Drue Pearce
District G

MEMORANDUM

TO: Representative Dave Donley, Chair
House Judiciary Committee

FROM: Senator Drue Pearce *Drue Pearce*

DATE: May 2, 1991

RE: Waiving hearing for SB 40, Marital and Family
Therapists Regulation

Please consider waiving CSSB 40 (FIN), An Act regulating the practice of marital and family therapy; amending Alaska Rule of Evidence 504(a)(3), from your committee.

Your committee heard the House companion bill, HB 18, sponsored by Representative Gruenberg, in March. You adopted a number of amendments which have been adopted in the Senate version. Attached are amendments that the Senate version adopted but the House did not.

As you know, CSSB 40 (FIN) establishes a five-member Board of Marital and Family Therapy to establish examination, training and education requirements for entry into the profession, and to issue licenses to qualified individuals. By providing these standards the public would be protected.

If CSSB 40 (FIN) does not become law this year, a disruption of services will occur for the clients of Alaskan marital and family therapists. These clients will no longer qualify for public assistance reimbursement due to changes in the Medicaid regulations that require licensed providers. It is important that CSSB 40 (FIN) be passed this session.

Due to the lateness in the session, I urge you to consider waiving CSSB 40 (FIN) from your committee.

Please call me or Tally Johnson of my staff, if you have any questions.

Thank you.

DP:tej

Attachments

*WAIVED
to Finance*

see pp 2 + 3

CS FOR HOUSE BILL NO. 18 (FINANCE)

**IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION**

BY THE HOUSE FINANCE COMMITTEE

**Offered: 4/17/91
Referred: Today's Calendar**

Sponsor(s): REPRESENTATIVES GRUENBERG, M.A. Miller, Carney

A BILL

FOR AN ACT ENTITLED

1 "An Act regulating the practice of marital and family therapy; and amending Alaska Rule
2 of Evidence 504(a)(3)."

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

4 * **Section 1.** AS 08 is amended by adding a new chapter to read:

5 **CHAPTER 63. MARITAL AND FAMILY THERAPY.**

6 **ARTICLE 1. BOARD OF MARITAL AND FAMILY THERAPY.**

7 **Sec. 08.63.010. BOARD ESTABLISHED.** (a) There is established the Board of Marital
8 and Family Therapy.

9 (b) The board consists of three persons licensed under this chapter and two members of
10 the public.

11 **Sec. 08.63.020. BOARD APPOINTMENTS.** The governor shall appoint the members
12 of the board subject to confirmation by the legislature.

13 **Sec. 08.63.030. MEETINGS.** The board shall hold an annual meeting and may hold
14 special meetings at the call of the chair or a majority of the board members.

1 Sec. 08.63.040. REMOVAL OF BOARD MEMBERS. The governor may only remove
2 a member of the board for good cause.

3 Sec. 08.63.050. POWERS AND DUTIES OF THE BOARD. The board shall

4 (1) establish objective examination requirements and training and education
5 requirements for persons who apply for a license to practice marital and family therapy;

6 (2) examine applicants and issue licenses to qualified applicants;

7 (3) establish continuing education requirements for license renewal;

8 (4) adopt a code of ethical practice for marital and family therapy;

9 (5) hold hearings and order the disciplinary sanction of a person who violates this
10 chapter or a regulation of the board;

11 (6) ensure that licensees are aware of the requirements of AS 47.17.020;

12 (7) establish standards for supervisors and supervision under this chapter;

13 (8) report annually to the governor and the department on the board's proceedings
14 each year; the report must include the number of licensure applicants, the number of
15 examinations conducted, the failure rate for each examination, a financial report, and other
16 information requested by the department;

17 (9) enforce the provisions of this chapter and adopt regulations necessary to carry
18 out its duties under this chapter.

19 Sec. 08.63.060. PROCEDURES. The Administrative Procedure Act (AS 44.62) applies
20 to regulations and proceedings under this chapter.

21 ARTICLE 2. MARITAL AND FAMILY THERAPY LICENSES.

22 Sec. 08.63.100. QUALIFICATIONS FOR LICENSE TO PRACTICE. (a) The board
23 shall issue a license to practice marital and family therapy to a person who

24 (1) applies on a form provided by the board;

25 (2) pays the fee established under AS 08.01.065;

26 (3) furnishes evidence satisfactory to the board that the person

27 (A) has not engaged in conduct that is a ground for imposing disciplinary
28 sanctions under AS 08.63.210;

29 (B) holds a master's degree or doctorate in marital and family therapy or
30 allied mental health field from a regionally accredited educational institution approved by
31 the board for which the person completed a course of study that included instruction

1 substantially equivalent to the following:

- 2 (i) courses in marital and family therapy;
3 (ii) courses in marital and family studies;
4 (iii) courses in human development;
5 (iv) a course in professional studies or professional ethics and law;
6 (v) a course in research; and
7 (vi) one year of supervised clinical practice in marital and family
8 therapy;

9 (C) after receiving a degree described in (B) of this paragraph, has

10 (i) practiced marital and family therapy within three years of the
11 person's application, including 1,500 hours of direct clinical contact with couples
12 and families; and

13 (ii) been supervised in the clinical contact for at least 200 hours,
14 including 100 hours of individual supervision and 100 hours of group supervision
15 approved by the board;

16 (D) has received training related to domestic violence; and

17 (E) has passed a written or oral examination administered by the board.

18 (b) Under regulations adopted by the board, a person who holds a master's or doctorate
19 degree in marital and family therapy or allied mental health field from a regionally accredited
20 educational institution approved by the board, but whose course of degree study did not include
21 all the courses or clinical practice requirements set out in (a)(3)(B) of this section may substitute
22 post-degree courses or practice, as approved by the board, to satisfy the requirements of (a)(3)(B)
23 of this section.

24 (c) An applicant who fails an examination given under this section may not retake the
25 examination for a period of six months from the date of the examination that the applicant failed.

26 (d) A license issued under this section shall be renewed biennially by the applicant on
27 a date set by the department and approved by the board. It shall be renewed by payment of the
28 fee established under AS 08.01.065 and by satisfaction of the continuing education requirements
29 established by the board for the renewal of licenses issued under this section.

30 Sec. 08.63.110. LICENSE FOR SUPERVISED PRACTICE. (a) The board shall issue
31 a four-year license for the supervised practice of marital and family therapy to a person who

1 meets the requirements of AS 08.63.100(a)(1), (2), and (3)(A) - (B).

2 (b) A licensee under this section may practice only

3 (1) under the direct supervision of a supervisor approved by the board under
4 AS 08.63.120; and

5 (2) in a clinic, social service agency, or other setting approved by the board.

6 (c) A license for supervised practice expires four years from the date of issuance and
7 may not be renewed.

8 (d) A licensee under this section shall submit to the board for its approval a proposed
9 plan for satisfying the supervision requirements of AS 08.63.100(a)(3)(C).

10 (e) A licensee under this section shall use the title "marital therapy associate," "family
11 therapy associate," or other title that is approved by the board.

12 (f) The board shall revoke a license for supervised practice if the person fails the
13 examination required under AS 08.63.100 two or more times.

14 Sec. 08.63.120. AUTHORIZED SUPERVISORS. (a) A person may not supervise a
15 person under this chapter unless approved by the board to be a supervisor.

16 (b) A person who supervises a licensee under this section must

17 (1) have practiced marital and family therapy for five years;

18 (2) be licensed under this chapter; and

19 (3) meet the minimum standards established by the board for approved
20 supervisors.

21 Sec. 08.63.130. TEMPORARY LICENSE FOR THE PRACTICE OF MARITAL AND
22 FAMILY THERAPY. (a) The board shall issue a temporary license for the practice of marital
23 and family therapy to an applicant who satisfies the requirements of AS 08.63.100(a)(1), (2) and
24 (3)(A), (B), and (C) and has been approved by the board to take the marital and family therapy
25 examination.

26 (b) A person may practice under a temporary license until the board issues the results
27 of the first marital and family therapy examination given after issuance of the person's temporary
28 license and either issues or denies a license under AS 08.63.100 to the person.

29 (c) If a licensee under this section fails the marital and family therapy examination, the
30 board may not renew the person's temporary license.

31 Sec. 08.63.140. LICENSURE BY CREDENTIALS. The board shall issue a license to

1 practice marital and family therapy to a person who

2 (1) is licensed or certified for the practice of marital and family therapy in another
3 state that has requirements for the license or certificate that are substantially equal to or greater
4 than the requirements of this state; and

5 (2) meets the requirements of AS 08.63.100(a)(1), (2), and (3)(A).

6 ARTICLE 3. GENERAL PROVISIONS.

7 Sec. 08.63.200. CONFIDENTIALITY OF COMMUNICATION. (a) A person licensed
8 under this chapter may not reveal to another person a communication made to the licensee by
9 a client about a matter concerning which the client has employed the licensee in a professional
10 capacity. This section does not apply to

11 (1) a case conference or case consultation with other mental health professionals
12 at which the patient is not identified;

13 (2) the release of information that the client in writing authorized the licensee to
14 reveal;

15 (3) information released to the board as part of a disciplinary or other proceeding;
16 or

17 (4) situations where the rules of evidence applicable to the psychotherapist-patient
18 privilege allow the release of the information.

19 (b) Notwithstanding (a) of this section, a person licensed under this chapter shall report
20 incidents of child abuse or neglect as required by AS 47.17.

21 (c) Information obtained by the board under (a)(3) of this section is confidential and is
22 not a public record for purposes of AS 09.25.110 - 09.25.140.

23 Sec. 08.63.210. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.
24 After a hearing, the board may impose a disciplinary sanction under AS 08.01.075 on a person
25 licensed under this chapter when the board finds that the person

26 (1) secured a license through deceit, fraud, or intentional misrepresentation;

27 (2) engaged in deceit, fraud, or intentional misrepresentation in the course of
28 providing professional services or engaging in professional activities;

29 (3) advertised professional services in a false or misleading manner;

30 (4) has been convicted of a felony or of another crime that affects the person's
31 ability to practice competently and safely;

1 (5) failed to comply with a provision of this chapter or a regulation adopted under
2 this chapter, or an order of the board;

3 (6) continued to practice after becoming unfit due to

4 (A) professional incompetence;

5 (B) addiction or severe dependency on alcohol or another drug that impairs
6 the person's ability to practice safely;

7 (7) engaged in unethical conduct in connection with the delivery of professional
8 services to clients.

9 Sec. 08.63.220. LICENSE REQUIRED IF DESIGNATION USED. A person who is not
10 licensed under this chapter or whose license is suspended or revoked, or whose license has
11 lapsed, who knowingly uses in connection with the person's name the words or letters
12 "L.M.F.T.," "L.M.F.C.," "Licensed Marital and Family Therapist," "Licensed Marriage and
13 Family Counselor," or other letters, words, or insignia indicating or implying that the person is
14 licensed as a marital and family therapist by this state or who in any way, orally or in writing,
15 directly or by implication, knowingly holds out as being licensed by the state as a marital and
16 family therapist in this state is guilty of a class B misdemeanor.

17 Sec. 08.63.900. DEFINITIONS. In this chapter, unless the context indicates otherwise,

18 (1) "advertise" includes issuing or causing to be distributed a card, sign or device
19 to a person, or causing, permitting, or allowing a sign or marking on or in a building or structure,
20 or in a newspaper, magazine, or directory, or on radio or television, or using other means
21 designed to secure public attention;

22 (2) "board" means the Board of Marital and Family Therapy;

23 (3) "course" means a class of at least three credit hours in a graduate program at
24 an accredited educational institution or an institution approved by the board;

25 (4) "department" means the Department of Commerce and Economic
26 Development;

27 (5) "practice of marital and family therapy" means the diagnosis and treatment
28 of mental and emotional disorders that are referenced in the standard diagnostic nomenclature for
29 marital and family therapy, whether cognitive, affective, or behavioral, within the context of
30 human relationships, particularly marital and family systems; marital and family therapy involves

31 (A) the professional application of assessments and treatments of

1 psychotherapeutic services to individuals, couples, and families for the purpose of treating
2 the diagnosed emotional and mental disorders;

3 (B) an applied understanding of the dynamics of marital and family
4 interactions, along with the application of psychotherapeutic and counseling techniques
5 for the purpose of resolving intrapersonal and interpersonal conflict and changing
6 perceptions, attitudes, and behaviors in the area of human relationships and family life;

7 (6) "supervision" means face-to-face consultation, direction, review, evaluation,
8 and assessment of the practice of the person being supervised, including direct observation and
9 the review of case presentations, audio tapes, and video tapes.

10 * Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:

11 (33) Board of Marital and Family Therapy (AS 08.63.010).

12 * Sec. 3. AS 08.02.010(a) is amended to read:

13 (a) An acupuncturist licensed under AS 08.06, an audiologist licensed under AS 08.11,
14 a person licensed in the state as a chiropractor under AS 08.20, a dentist under AS 08.36, a
15 marital and family therapist licensed under AS 08.63, a medical practitioner or osteopath
16 under AS 08.64, a registered nurse under AS 08.68, an optometrist under AS 08.72, a registered
17 pharmacist under AS 08.80, a physical therapist or occupational therapist licensed under
18 AS 08.84, a psychologist under AS 08.86, or a clinical social worker licensed under AS 08.95,
19 shall use as professional identification appropriate letters or a title after that person's name which
20 represents that person's specific field of practice. The letters or title shall appear on all signs,
21 stationery, or other advertising in which the person offers or displays personal professional
22 services to the public. In addition, a person engaged in the practice of medicine or osteopathy
23 under AS 08.64.380 or a person engaged in any manner in the healing arts who diagnoses, treats,
24 tests, or counsels other persons in relation to human health or disease and uses the letters "M.D."
25 or the title "doctor" or "physician" or another title that tends to show that the person is willing
26 or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by
27 adding the appropriate specialist designation, if any, such as "dermatologist", "radiologist",
28 "audiologist", "naturopath", or the like.

29 * Sec. 4. AS 08.03.010(c) is amended by adding a new paragraph to read:

30 (25) Board of Marital and Family Therapy (AS 08.63.010) -- June 30, 1994.

31 * Sec. 5. AS 44.62.330(a) is amended by adding a new paragraph to read:

1 (57) Board of Marital and Family Therapy (AS 08.63.010).

2 * Sec. 6. AS 47.17.290(13) is amended to read:

3 (13) "practitioner of the healing arts" includes chiropractors, mental health
4 counselors, dental hygienists, dentists, health aides, nurses, nurse practitioners, occupational
5 therapists, occupational therapy assistants, optometrists, osteopaths, naturopaths, physical thera-
6 pists, physical therapy assistants, physicians, physician's assistants, psychiatrists, psychologists,
7 psychological associates, audiologists licensed under AS 08.11, hearing aid dealers licensed under
8 AS 08.55, marital and family therapists licensed under AS 08.63, religious healing
9 practitioners, acupuncturists, and surgeons;

10 * Sec. 7. Alaska Rule of Evidence 504(a) is amended to read:

11 (a) DEFINITIONS. As used in this rule:

12 (1) A patient is a person who consults or is examined or interviewed by a
13 physician or psychotherapist.

14 (2) A physician is a person authorized to practice medicine in any state or nation,
15 or reasonably believed by the patient so to be.

16 (3) A psychotherapist is (A) a person authorized to practice medicine in any state
17 or nation, or reasonably believed by the patient so to be, while engaged in the diagnosis or
18 treatment of a mental or emotional condition, including alcohol or drug addiction, [OR] (B) a
19 person licensed or certified as a psychologist or psychological examiner under the laws of any
20 state or nation or reasonably believed by the patient to so be, while similarly engaged, or (C) a
21 person licensed as a marital or family therapist under the laws of a state or nation or
22 reasonably believed by the patient to so be, while similarly engaged.

23 (4) A communication is confidential if not intended to be disclosed to third
24 persons other than those present to further the interest of the patient in the consultation,
25 examination, or interview, or persons reasonably necessary for the transmission of the
26 communication, or persons who are participating in the diagnosis and treatment under the
27 direction of the physician or psychotherapist, including members of the patient's family.

28 * Sec. 8. INITIAL APPOINTMENTS. (a) In making the initial appointments of professional
29 members to the Board of Marital and Family Therapy, the governor shall consider a person licensed for
30 the purpose of AS 08.63.010, added by sec. 1 of this Act, if the person would be entitled to a license
31 under sec. 9 of this Act. The Board of Marital and Family Therapy shall issue a license to practice

1 marital and family therapy to the professional members appointed under this section.

2 (b) A license issued under this section is subject to the same renewal requirements as a license
3 issued under AS 08.63.100, added by sec. 1 of this Act.

4 (c) The initial appointments to the board shall be staggered as provided in AS 39.05.055.

5 * Sec. 9. TRANSITIONAL LICENSING. (a) Notwithstanding AS 08.63.100, added by sec. 1 of
6 this Act, the Board of Marital and Family Therapy shall issue a license to practice marital and family
7 therapy to a person who

8 (1) applies for a license before July 1, 1992;

9 (2) satisfies the requirements of AS 08.63.100(a)(1) - (3)(A), added by sec. 1 of this Act;

10 (3) holds a master's or doctorate degree from an accredited educational institution either
11 in

12 (A) marital and family therapy or another mental health field as defined in
13 AS 08.63.100(b); or

14 (B) an appropriate course of study approved by the board; and

15 (4) has practiced marital and family therapy in the state for at least two years preceding
16 application.

17 (b) A license under this section is subject to the same renewal requirements as a license issued
18 under AS 08.63.100, added by sec. 1 of this Act.

19 (c) The Board of Marital and Family Therapy shall liberally construe the requirements of (a) of
20 this section for the purposes of licensing as a marital and family therapy professional every person who
21 merits licensing by virtue of the person's education, training, and experience in the field of marital and
22 family therapy.

*Changes made on pages 3, 5, 6, 8, & 9.
These are changes made from House Finance
version of HB 18.*

CS FOR SENATE BILL NO. 40 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/17/91

Referred: Rules

Sponsor(s): SENATORS PEARCE, Menard

A BILL

FOR AN ACT ENTITLED

1 "An Act regulating the practice of marital and family therapy and amending Alaska Rule
2 of Evidence 504(a)(3)."

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

4 * Section 1. AS 08 is amended by adding a new chapter to read:

5 **CHAPTER 63. MARITAL AND FAMILY THERAPY.**

6 **ARTICLE 1. BOARD OF MARITAL AND FAMILY THERAPY.**

7 **Sec. 08.63.010. BOARD ESTABLISHED.** (a) There is established the Board of Marital
8 and Family Therapy.

9 (b) The board consists of three persons licensed under this chapter and two members of
10 the public.

11 **Sec. 08.63.020. BOARD APPOINTMENTS.** The governor shall appoint the members
12 of the board subject to confirmation by the legislature.

13 **Sec. 08.63.030. MEETINGS.** The board shall hold an annual meeting and may hold
14 special meetings at the call of the chair or a majority of the board members.

1 Sec. 08.63.040. REMOVAL OF BOARD MEMBERS. The governor may only remove
2 a member of the board for good cause.

3 Sec. 08.63.050. POWERS AND DUTIES OF THE BOARD. The board shall

4 (1) establish objective examination requirements and training and education
5 requirements for persons who apply for a license to practice marital and family therapy;

6 (2) examine applicants and issue licenses to qualified applicants;

7 (3) establish continuing education requirements for license renewal;

8 (4) adopt a code of ethical practice for marital and family therapy;

9 (5) hold hearings and order the disciplinary sanction of a person who violates this
10 chapter or a regulation of the board;

11 (6) ensure that licensees are aware of the requirements of AS 47.17.020;

12 (7) establish standards for supervisors and supervision under this chapter;

13 (8) report annually to the governor and the department on the board's proceedings
14 each year; the report must include the number of licensure applicants, the number of
15 examinations conducted, the failure rate for each examination, a financial report, and other
16 information requested by the department;

17 (9) enforce the provisions of this chapter and adopt regulations necessary to carry
18 out its duties under this chapter.

19 Sec. 08.63.060. PROCEDURES. The Administrative Procedure Act (AS 44.62) applies
20 to regulations and proceedings under this chapter.

21 ARTICLE 2. MARITAL AND FAMILY THERAPY LICENSES.

22 Sec. 08.63.100. QUALIFICATIONS FOR LICENSE TO PRACTICE. (a) The board
23 shall issue a license to practice marital and family therapy to a person who

24 (1) applies on a form provided by the board;

25 (2) pays the fee established under AS 08.01.065;

26 (3) furnishes evidence satisfactory to the board that the person

27 (A) has not engaged in conduct that is a ground for imposing disciplinary
28 sanctions under AS 08.63.210;

29 (B) holds a master's degree or doctorate in marital and family therapy or
30 another allied mental health or the equivalent field from a regionally accredited educational institution approved by
31 the board for which the person completed a course of study that included instruction

H. Jud.
see (b)
on p. 3.

1 substantially equivalent to the following:

2 (i) three courses or nine semester or 12 quarter hours of course
3 work in marital and family therapy;

4 (ii) three courses or nine semester or 12 quarter hours of course
5 work in marital and family studies;

6 (iii) three courses or nine semester or 12 quarter hours of course
7 work in human development;

8 (iv) one course or three semester or four quarter hours of course
9 work in professional studies or professional ethics and law;

10 (v) one course or three semester or four quarter hours of course
11 work in research; and

12 (vi) one year of supervised clinical practice in marital and family
13 therapy;

14 (C) after receiving a degree described in (B) of this paragraph, has

15 (i) practiced marital and family therapy within three years of the
16 person's application, including 1,500 hours of direct clinical contact with couples
17 and families; and

18 (ii) been supervised in the clinical contact for at least 200 hours,
19 including 100 hours of individual supervision and 100 hours of group supervision
20 approved by the board;

21 (D) has received training related to domestic violence; and

22 (E) has passed a written or oral examination administered by the board.

23 (b) Under regulations adopted by the board, a person who holds a master's or doctorate
24 degree in marital and family therapy or allied mental health field from a regionally accredited
25 educational institution approved by the board, but whose course of degree study did not include
26 all the courses or clinical practice requirements set out in (a)(3)(B) of this section may substitute
27 post-degree courses or practice, as approved by the board, to satisfy the requirements of (a)(3)(B)
28 of this section.

29 (c) An applicant who fails an examination given under this section may not retake the
30 examination for a period of six months from the date of the examination that the applicant failed.

31 (d) A license issued under this section shall be renewed biennially by the applicant on

1 a date set by the department and approved by the board. It shall be renewed by payment of the
2 fee established under AS 08.01.065 and by satisfaction of the continuing education requirements
3 established by the board for the renewal of licenses issued under this section.

4 Sec. 08.63.110. LICENSE FOR SUPERVISED PRACTICE. (a) The board shall issue
5 a four-year license for the supervised practice of marital and family therapy to a person who
6 meets the requirements of AS 08.63.100(a)(1), (2), and (3)(A) - (B).

7 (b) A licensee under this section may practice only

8 (1) under the direct supervision of a supervisor approved by the board under
9 AS 08.63.120; and

10 (2) in a clinic, social service agency, or other setting approved by the board.

11 (c) A license for supervised practice expires four years from the date of issuance and
12 may not be renewed.

13 (d) A licensee under this section shall submit to the board for its approval a proposed
14 plan for satisfying the supervision requirements of AS 08.63.100(a)(3)(C).

15 (e) A licensee under this section shall use the title "marital therapy associate," "family
16 therapy associate," or other title that is approved by the board.

17 (f) The board shall revoke a license for supervised practice if the person fails the
18 examination required under AS 08.63.100 two or more times.

19 Sec. 08.63.120. AUTHORIZED SUPERVISORS. (a) A person may not supervise a
20 person under this chapter unless approved by the board to be a supervisor.

21 (b) A person who supervises a licensee under this section must

22 (1) have practiced marital and family therapy for five years;

23 (2) be licensed under this chapter; and

24 (3) meet the minimum standards established by the board for approved
25 supervisors.

26 Sec. 08.63.130. TEMPORARY LICENSE FOR THE PRACTICE OF MARITAL AND
27 FAMILY THERAPY. (a) The board shall issue a temporary license for the practice of marital
28 and family therapy to an applicant who satisfies the requirements of AS 08.63.100(a)(1), (2) and
29 (3)(A), (B), and (C) and has been approved by the board to take the marital and family therapy
30 examination.

31 (b) A person may practice under a temporary license until the board issues the results

1 of the first marital and family therapy examination given after issuance of the person's temporary
2 license and either issues or denies a license under AS 08.63.100 to the person.

3 (c) If a licensee under this section fails the marital and family therapy examination, the
4 board may not renew the person's temporary license.

5 Sec. 08.63.140. LICENSURE BY CREDENTIALS. The board shall issue a license to
6 practice marital and family therapy to a person who

7 (1) is licensed or certified for the practice of marital and family therapy in another
8 state that has requirements for the license or certificate that are substantially equal to or greater
9 than the requirements of this state; and

10 (2) meets the requirements of AS 08.63.100(a)(1), (2), and (3)(A).

11 ARTICLE 3. GENERAL PROVISIONS.

12 Sec. 08.63.200. CONFIDENTIALITY OF COMMUNICATION. (a) A person licensed
13 under this chapter may not reveal to another person a communication made to the licensee by
14 a client about a matter concerning which the client has employed the licensee in a professional
15 capacity. This section does not apply to

16 (1) a case conference or case consultation with other mental health professionals
17 at which the patient is not identified;

18 (2) the release of information that the client in writing authorized the licensee to
19 reveal;

20 (3) information released to the board as part of a disciplinary or other proceeding;
21 or

22 (4) situations where the rules of evidence applicable to the psychotherapist-patient
23 privilege allow the release of the information.

24 (b) Notwithstanding (a) of this section, a person licensed under this chapter shall report
25 incidents of

26 (1) child abuse or neglect as required by AS 47.17;

27 (2) harm or assaults suffered by an elderly person or disabled adult as required
28 by AS 47.24.

29 (c) Information obtained by the board under (a)(3) of this section is confidential and is
30 not a public record for purposes of AS 09.25.110 - 09.25.140.

31 Sec. 08.63.210. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.

1 After a hearing, the board may impose a disciplinary sanction under AS 08.01.075 on a person
2 licensed under this chapter when the board finds that the person

- 3 (1) secured a license through deceit, fraud, or intentional misrepresentation;
- 4 (2) engaged in deceit, fraud, or intentional misrepresentation in the course of
5 providing professional services or engaging in professional activities;
- 6 (3) advertised professional services in a false or misleading manner;
- 7 (4) has been convicted of a felony or of another crime that affects the person's
8 ability to practice competently and safely;
- 9 (5) failed to comply with a provision of this chapter or a regulation adopted under
10 this chapter, or an order of the board;
- 11 (6) continued to practice after becoming unfit due to
 - 12 (A) professional incompetence;
 - 13 (B) addiction or severe dependency on alcohol or another drug that impairs
14 the person's ability to practice safely;
- 15 (7) engaged in unethical conduct in connection with the delivery of professional
16 services to clients.

17 Sec. 08.63.220. LICENSE REQUIRED IF DESIGNATION USED. A person who is not
18 licensed under this chapter or whose license is suspended or revoked, or whose license has
19 lapsed, who knowingly uses in connection with the person's name the words or letters
20 "L.M.F.T.," "L.M.F.C.," "Licensed Marital and Family Therapist," "Licensed Marriage and
21 Family Counselor," or other letters, words, or insignia indicating or implying that the person is
22 licensed as a marital and family therapist ^[by] in this state or who in any way, orally or in writing,
23 directly or by implication, knowingly holds out as being licensed ^[by the state] as a marital and family therapist
24 in this state is guilty of a class B misdemeanor.

25 Sec. 08.63.900. DEFINITIONS. In this chapter, unless the context indicates otherwise,
This will be added back in 128 [Parsons Amendment]
(1) "advertise" includes issuing or causing to be distributed a card, sign or device
to a person, or causing, permitting, or allowing a sign or marking on or in a building or structure,
or in a newspaper, magazine, or directory, or on radio or television, or using other means
designed to secure public attention;

(2) "board" means the Board of Marital and Family Therapy;

(3) "course" means a class of at least three credit hours in a graduate program at

1 an accredited educational institution or an institution approved by the board;

2 (4) "department" means the Department of Commerce and Economic
3 Development;

4 (5) "practice of marital and family therapy" means the diagnosis and treatment
5 of mental and emotional disorders that are referenced in the standard diagnostic nomenclature for
6 marital and family therapy, whether cognitive, affective, or behavioral, within the context of
7 human relationships, particularly marital and family systems; marital and family therapy involves

8 (A) the professional application of assessments and treatments of
9 psychotherapeutic services to individuals, couples, and families for the purpose of treating
10 the diagnosed emotional and mental disorders;

11 (B) an applied understanding of the dynamics of marital and family
12 interactions, along with the application of psychotherapeutic and counseling techniques
13 for the purpose of resolving intrapersonal and interpersonal conflict and changing
14 perceptions, attitudes, and behaviors in the area of human relationships and family life;

15 (6) "supervision" means face-to-face consultation, direction, review, evaluation,
16 and assessment of the practice of the person being supervised, including direct observation and
17 the review of case presentations, audio tapes, and video tapes.

18 * Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:

19 (33) Board of Marital and Family Therapy (AS 08.63.010).

20 * Sec. 3. AS 08.02.010(a) is amended to read:

21 (a) An acupuncturist licensed under AS 08.06, an audiologist licensed under AS 08.11,
22 a person licensed in the state as a chiropractor under AS 08.20, a dentist under AS 08.36, a
23 marital and family therapist licensed under AS 08.63, a medical practitioner or osteopath
24 under AS 08.64, a registered nurse under AS 08.68, an optometrist under AS 08.72, a registered
25 pharmacist under AS 08.80, a physical therapist or occupational therapist licensed under AS 08.-
26 84, a psychologist under AS 08.86, or a clinical social worker licensed under AS 08.95, shall use
27 as professional identification appropriate letters or a title after that person's name which repre-
28 sents that person's specific field of practice. The letters or title shall appear on all signs,
29 stationery, or other advertising in which the person offers or displays personal professional
30 services to the public. In addition, a person engaged in the practice of medicine or osteopathy
31 under AS 08.64.380 or a person engaged in any manner in the healing arts who diagnoses, treats,

1 tests, or counsels other persons in relation to human health or disease and uses the letters "M.D."
2 or the title "doctor" or "physician" or another title that tends to show that the person is willing
3 or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by
4 adding the appropriate specialist designation, if any, such as "dermatologist", "radiologist",
5 "audiologist", "naturopath", or the like.

6 * Sec. 4. AS 08.03.010(c) is amended by adding a new paragraph to read:

7 (25) Board of Marital and Family Therapy (AS 08.63.010) -- June 30, 1994.

8 * Sec. 5. AS 44.62.330(a) is amended by adding a new paragraph to read:

9 (57) Board of Marital and Family Therapy (AS 08.63.010).

10 * Sec. 6. AS 47.17.290(13) is amended to read:

11 (13) "practitioner of the healing arts" includes chiropractors, mental health
12 counselors, dental hygienists, dentists, health aides, nurses, nurse practitioners, occupational
13 therapists, occupational therapy assistants, optometrists, osteopaths, naturopaths, physical thera-
14 pists, physical therapy assistants, physicians, physician's assistants, psychiatrists, psychologists,
15 psychological associates, audiologists licensed under AS 08.11, hearing aid dealers licensed under
16 AS 08.55, marital and family therapists licensed under AS 08.63, religious healing
17 practitioners, acupuncturists, and surgeons;

18 * Sec. 7. AS 47.24.010(a) is amended to read:

19 (a) The following persons who, in the performance of their professional duties, have
20 reasonable cause to believe that an elderly person has suffered harm shall, not later than 24 hours
21 after first having cause for the belief, report the harm to the Department of Health and Social
22 Services:

23 (1) a physician or other licensed health care provider;

24 (2) a mental health professional as defined in AS 47.30.915(11) and including
25 a marital and family therapist licensed under AS 08.63;

26 (3) a pharmacist;

27 (4) an administrator of a nursing home, residential care or health care facility;

28 (5) a guardian or conservator;

29 (6) a police officer;

30 (7) a village public safety officer;

31 (8) a village health aide;

*added in
Don For
added as reporter
under elder
abuse law.*

*disabled abuse
reporting stat
added in Sen. Finance.*

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- (9) a social worker;
- (10) a member of the clergy;
- (11) a staff employee of a project funded by the Older Alaskans Commission;
- (12) an employee of a homemaker program or home health aide program;
- (13) an emergency medical technician or a paramedic in the mobile intensive care program.

* Sec. 8. AS 47.24.110(a) is amended to read:

(a) The following persons who, in the performance of their professional duties, have reasonable cause to believe that a disabled adult is a victim of assault under AS 11.41.200 - 11.41.230 or sexual assault under AS 11.41.410 - 11.41.420, and that the disabled adult is unable to report the crime, shall promptly report the crime to the nearest law enforcement agency:

- (1) a physician or other licensed health care provider;
- (2) a mental health professional as defined in AS 47.30.915 and including a marital and family therapist licensed under AS 08.63;
- (3) a pharmacist;
- (4) an administrator or employee of a nursing home, residential care, or health care facility;
- (5) a caretaker of the disabled adult;
- (6) a guardian or conservator of the disabled adult;
- (7) a police officer as defined in AS 18.65.290;
- (8) a village public safety officer;
- (9) a village health aide;
- (10) a social worker;
- (11) a member of the clergy;
- (12) a staff employee of a program or project serving disabled adults;
- (13) a licensed foster care provider;
- (14) a paid employee of a domestic violence and sexual assault program or a crisis intervention and prevention program as defined in AS 18.66.900;
- (15) an employee of a homemaker program or home health aide program;
- (16) an emergency medical technician or paramedic in the mobile intensive care program.

1 * Sec. 9. Alaska Rule of Evidence 504(a) is amended to read:

2 (a) DEFINITIONS. As used in this rule:

3 (1) A patient is a person who consults or is examined or interviewed by a
4 physician or psychotherapist.

5 (2) A physician is a person authorized to practice medicine in any state or nation,
6 or reasonably believed by the patient so to be.

7 (3) A psychotherapist is (A) a person authorized to practice medicine in any state
8 or nation, or reasonably believed by the patient so to be, while engaged in the diagnosis or
9 treatment of a mental or emotional condition, including alcohol or drug addiction, [OR] (B) a
10 person licensed or certified as a psychologist or psychological examiner under the laws of any
11 state or nation or reasonably believed by the patient to so be, while similarly engaged, or (C) a
12 person licensed as a marital or family therapist under the laws of a state or nation or
13 reasonably believed by the patient to so be, while similarly engaged.

14 (4) A communication is confidential if not intended to be disclosed to third
15 persons other than those present to further the interest of the patient in the consultation,
16 examination, or interview, or persons reasonably necessary for the transmission of the
17 communication, or persons who are participating in the diagnosis and treatment under the
18 direction of the physician or psychotherapist, including members of the patient's family.

19 * Sec. 10. INITIAL APPOINTMENTS. (a) In making the initial appointments of professional
20 members to the Board of Marital and Family Therapy, the governor shall consider a person licensed for
21 the purpose of AS 08.63.010, added by sec. 1 of this Act, if the person would be entitled to a license
22 under sec. 11 of this Act. The Board of Marital and Family Therapy shall issue a license to practice
23 marital and family therapy to the professional members appointed under this section.

24 (b) A license issued under this section is subject to the same renewal requirements as a license
25 issued under AS 08.63.100, added by sec. 1 of this Act.

26 (c) The initial appointments to the board shall be staggered as provided in AS 39.05.055.

27 * Sec. 11. TRANSITIONAL LICENSING. (a) Notwithstanding AS 08.63.100, added by sec. 1 of
28 this Act, the Board of Marital and Family Therapy shall issue a license to practice marital and family
29 therapy to a person who

30 (1) applies for a license before July 1, 1992;

31 (2) satisfies the requirements of AS 08.63.100(a)(1) - (3)(A), added by sec. 1 of this Act;

1 (3) holds a master's or doctorate degree from an accredited educational institution either
2 in
3 (A) marital and family therapy or another mental health field; or
4 (B) an appropriate course of study approved by the board; and
5 (4) has practiced marital and family therapy in the state for at least two years preceding
6 application.

7 (b) A license under this section is subject to the same renewal requirements as a license issued
8 under AS 08.63.100, added by sec. 1 of this Act.

9 (c) The Board of Marital and Family Therapy shall liberally construe the requirements of (a) of
10 this section for the purposes of licensing as a marital and family therapy professional every person who
11 merits licensing by virtue of the person's education, training, and experience in the field of marital and
12 family therapy.

SENATE HESS COMMITTEE

AMENDMENT
SENATE BILL 40

Accepted

Page 3, Line 1:

(i) (3 courses: 9 semester or 12 quarter hours) courses in marital and family therapy;

(ii) (3 courses: 9 semester or 12 quarter hours) courses in marital and family studies;

(iii) (3 courses: 9 semester or 12 quarter hours) courses in human development

(iv) (1 course: 3 semester or 4 quarter hours) in professional studies or professional ethics;

(v) (1 course: 3 semester or 4 quarter hours) in research;
and

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 40(HES)

BY SENATOR ADAMS

A

Page 5, line 23:

Following "of"

Insert "(1)"

Following "AS 47.17"

Insert ";

(2) harm or assault suffered by an elderly person or disabled adult as required by
AS 47.24"

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 40(HES)

BY SENATOR ADAMS

B

Page 8, following line 12:

Insert new bill sections to read:

"* Sec. 7. AS 47.24.010(a) is amended to read:

(a) The following persons who, in the performance of their professional duties, have reasonable cause to believe that an elderly person has suffered harm shall, not later than 24 hours after first having cause for the belief, report the harm to the Department of Health and Social Services:

- (1) a physician or other licensed health care provider;
- (2) a mental health professional as defined in AS 47.30.915(11) and including a marital and family therapist licensed under AS 08.63;
- (3) a pharmacist;
- (4) an administrator of a nursing home, residential care or health care facility;
- (5) a guardian or conservator;
- (6) a police officer;
- (7) a village public safety officer;
- (8) a village health aide;
- (9) a social worker;
- (10) a member of the clergy;
- (11) a staff employee of a project funded by the Older Alaskans Commission;
- (12) an employee of a homemaker program or home health aide program;
- (13) an emergency medical technician or a paramedic in the mobile intensive care program.

* Sec. 8. AS 47.24.110(a) is amended to read:

(a) The following persons who, in the performance of their professional duties, have reasonable cause to believe that a disabled adult is a victim of assault under AS 11.41.200 -

11.41.230 or sexual assault under AS 11.41.410 - 11.41.420, and that the disabled adult is unable to report the crime, shall promptly report the crime to the nearest law enforcement agency:

- (1) a physician or other licensed health care provider;
- (2) a mental health professional as defined in AS 47.30.915 and including a marital and family therapist licensed under AS 03.63;
- (3) a pharmacist;
- (4) an administrator or employee of a nursing home, residential care, or health care facility;
- (5) a caretaker of the disabled adult;
- (6) a guardian or conservator of the disabled adult;
- (7) a police officer as defined in AS 18.65.290;
- (8) a village public safety officer;
- (9) a village health aide;
- (10) a social worker;
- (11) a member of the clergy;
- (12) a staff employee of a program or project serving disabled adults;
- (13) a licensed foster care provider;
- (14) a paid employee of a domestic violence and sexual assault program or a crisis intervention and prevention program as defined in AS 18.66.900;
- (15) an employee of a homemaker program or home health aide program;
- (16) an emergency medical technician or paramedic in the mobile intensive care program."

Renumber the following bill sections accordingly.

Page 9, line 3:

Delete "sec. 9"

Insert "sec. 11"

Article 1. Protection of the Elderly.

Section

- 10. Reports of harm
- 20. Action on reports
- 30. Protective services
- 40. Review and referral
- 50. Confidentiality of reports

Section

- 60. Authority of the department
- 70. Regulations
- 75. Quarterly report
- 100. Definitions

Cross references. — For statement of legislative purpose in enacting AS 47.24.010 — 47.24.100, see § 1, ch. 36, SLA 1983, in the Temporary and Special Acts.

Sec. 47.24.010. Reports of harm. (a) The following persons who, in the performance of their professional duties, have reasonable cause to believe that an elderly person has suffered harm shall, not later than 24 hours after first having cause for the belief, report the harm to the Department of Health and Social Services:

- (1) a physician or other licensed health care provider;
- (2) a mental health professional as defined in AS 47.30.915(11);
- (3) a pharmacist;
- (4) an administrator of a nursing home, residential care or health care facility;
- (5) a guardian or conservator;
- (6) a police officer;
- (7) a village public safety officer;
- (8) a village health aide;
- (9) a social worker;
- (10) a member of the clergy;
- (11) a staff employee of a project funded by the Older Alaskans Commission;
- (12) an employee of a homemaker program or home health aide program;
- (13) an emergency medical technician or a paramedic in the mobile intensive care program.

(b) A report of harm made under this section may include the name and address of the person reporting the harm and shall include

- (1) the name and address of the elderly person;
- (2) information relating to the nature and extent of the harm;
- (3) other information that the person reporting the harm believes might be helpful in an investigation of the case or in providing protection for the elderly person.

(c) A person who fails to comply with this section is guilty of a violation as defined in AS 11.81.900(b).

(d) This section does not prohibit a person listed in (a) of this section from reporting cases of economic or physical harm to an elderly person that have come to the person's attention in a nonprofessional capacity. This section does not prohibit any other person from reporting economic harm to an elderly person that the person has reasonable cause to believe is a result of theft, fraud, or coercion by a caretaker of the elderly person, or physical harm to an elderly person that the person has reasonable cause to believe is a result of abuse, neglect, or abandonment.

(e) If immediate action is necessary to protect the elderly person from imminent harm, the person shall make the report of harm to a police officer or a village public safety officer. The police officer or village public safety officer shall take immediate action to protect the elderly person and shall, at the earliest opportunity, notify the department.

(f) A person who, in good faith makes a report of economic or physical harm to an elderly person under AS 47.24.010 — 47.24.100, or who participates in judicial proceedings related to the submission of reports under AS 47.24.010 — 47.24.100, is immune from any civil or criminal liability that might otherwise be incurred or imposed.

(g) Failure to make a report under subsections (a) and (d) of this section is not the basis of civil liability unless otherwise provided by law.

(h) If a person makes a good faith report of harm under this section, an employer or supervisor of the person, or a public or private agency or entity that provides benefits, services, or housing to the person, may not discharge, demote, transfer, reduce the pay or benefits or work privileges of, prepare a negative work performance evaluation of, deny or withhold benefits or services, evict, or take other detrimental action against the person because of the report. The person making the report may bring a civil action for compensatory and punitive damages against an employer, supervisor, agency, or entity that violates this subsection. In the civil action there is a rebuttable presumption that the detrimental action was retaliatory if it was taken within 90 days after the report of harm was made. (§ 2 ch 36 SLA 1983; am § 4 ch 108 SLA 1988)

Effect of amendments. — The 1988 amendment added subsection (h).

Sec. 47.24.020. Action on reports. (a) Upon receiving a report of harm, the department shall promptly initiate an investigation to determine the economic or physical condition of the elderly person named in the report and whether action or services are needed for the protection of the elderly person. The department shall personally interview the elderly person during the investigation unless the elderly

(5) "economic harm" means intentional economic exploitation of an elderly person resulting from theft, fraud, or coercion by a caretaker of the elderly person;

(6) "elderly person" means a resident of Alaska who is 65 years of age or older;

(7) "harm" means physical harm or economic harm;

(8) "incapacitated" means a person's ability to receive and evaluate information or to communicate decisions is impaired for reasons other than minority to the extent that the person lacks the ability to obtain the essential requirements for physical health or safety without court-ordered assistance;

(9) "neglect" means the failure by the caretaker of an elderly person to provide services necessary to maintain the physical and mental health of the elderly person;

(10) "physical harm" means injury to the person of an elderly person resulting from abuse, neglect or abandonment;

(11) "police officer" has the meaning given in AS 18.65.290;

(12) "protective services" means services intended to prevent or alleviate harm resulting from abuse, neglect, exploitation, or abandonment. (§ 2 ch 36 SLA 1983)

Article 2. Protection of Disabled Adults.

Section

110. Reports of physical or sexual assault

120. Immunity from liability; retaliation prohibited

Sec. 47.24.110. Reports of physical or sexual assault. (a) The following persons who, in the performance of their professional duties, have reasonable cause to believe that a disabled adult is a victim of assault under AS 11.41.200 — 11.41.230 or sexual assault under AS 11.41.410 — 11.41.420, and that the disabled adult is unable to report the crime, shall promptly report the crime to the nearest law enforcement agency:

- (1) a physician or other licensed health care provider;
- (2) a mental health professional as defined in AS 47.30.915;
- (3) a pharmacist;
- (4) an administrator or employee of a nursing home, residential care, or health care facility;
- (5) a caretaker of the disabled adult;
- (6) a guardian or conservator of the disabled adult;
- (7) a police officer as defined in AS 18.65.290;
- (8) a village public safety officer;
- (9) a village health aide;
- (10) a social worker;
- (11) a member of the clergy;

(12) a staff employee of a program or project serving disabled adults;

(13) a licensed foster care provider;

(14) a paid employee of a domestic violence and sexual assault program or a crisis intervention and prevention program as defined in AS 18.66.900;

(15) an employee of a homemaker program or home health aide program;

(16) an emergency medical technician or paramedic in the mobile intensive care program.

(b) A person who knowingly fails or refuses to make a report required under (a) of this section is guilty of a class B misdemeanor.

(c) In this section, "disabled adult" means a person 18 years of age or older who has a physical or mental disability, or physical or mental impairment, as defined in AS 18.80.300. (§ 3 ch 42 SLA 1988)

Sec. 47.24.120. Immunity from liability; retaliation prohibited. (a) A person who in good faith makes a report under AS 47.24.110, regardless of whether the person is required to do so, is immune from civil or criminal liability that might otherwise be incurred or imposed for making the report.

(b) An employer or supervisor of a person who in good faith makes a report under AS 47.24.110 may not discharge, demote, transfer, reduce pay or benefits or work privileges of, prepare a negative work performance evaluation of, or take other detrimental action against the person because the person made the report. The person making the report may bring a civil action for compensatory and punitive damages against an employer or supervisor who violates this subsection. In the civil action there is a rebuttable presumption that the detrimental action by the employer or supervisor was retaliatory if it was taken within 90 days after the report was made. (§ 3 ch 42 SLA 1988)

Chapter 25. Public Assistance.

Article

1. General Relief Assistance (§§ 47.25.120 — 47.25.300)
2. Aid to Families with Dependent Children Act (§§ 47.25.310 — 47.25.420)
3. Job Opportunity and Basic Skills Program (JOBS) (§§ 47.25.421 — 47.25.429)
4. Adult Public Assistance (§§ 47.25.430 — 47.25.615)
5. Food Stamp Program (§§ 47.25.975 — 47.25.990)

Secs.

47.55.1

Sec.

Section

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130. Amc

140. Resi

150. Appl

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STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSSB 40 (HES)

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: Regulating the practice of BRU: Occupational Licensing
marital and family therapy.... Component: Administration
 Sponsor: Senator Pearce
 Requestor: Senate HESS COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	3.6	3.6	3.6	3.6	3.6	3.6
TRAVEL	12.7	12.7	11.6	11.6	11.6	11.6
CONTRACTUAL	10.7	10.7	10.7	10.7	10.7	10.7
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	28.0	28.0	26.9	26.9	26.9	26.9
CAPITAL						

REVENUE	28.0	0	28.0	0	28.0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND		28.0		26.9		26.9
FEDERAL FUNDS						
OTHER GF/PR	28.0	0	26.9	0	26.9	0
TOTAL	28.0	28.0	26.9	26.9	26.9	26.9

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) CSSB 40 (HES) establishes a five-member Board of Marital and Family Therapy to establish examination, training and education requirements for entry into the profession, and to issue licenses to qualified individuals. Information on file indicates there are approximately 40 practitioners who would be affected by this legislation upon passage.

Prepared By: Jennifer Strickler, Admin. Officer Phone: 465-2144
 Division: Occupational Licensing Date: April 15, 1991
 Approved by Commissioner: Glenn A. Olds
 Agency: Commerce & Economic Development Date: 4-15-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION OF FISCAL NOTE ANALYSIS - CSSB 40 (HES)

This fiscal note represents the cost of licensing marital and family therapists with a five-member board and an estimate of forty (40) practitioners who would seek and qualify for licensure. Costs of the program are projected based on the number of licensees and mandates in the bill. Therefore, costs associated with the marital and family therapy licensing program are projected as follows:

Personal Services: \$ 3.6

To provide administrative staff support.

Travel: \$ 12.7

In FY 92, this funding will provide for two face-to-face meetings (one in Anchorage and one in Juneau), assuming two members are from the Anchorage area, two from Juneau, one from Fairbanks; and three division staff (Director, Licensing Examiner, and Regulations Specialist) to attend each meeting; and two additional meetings to be held by teleconference.

In FY 93, funding provides for three board meetings (two face-to-face and one by teleconference), and travel to administer the licensing examination in various locations throughout the State. (\$12.7)

In FY 94 forward, the licensing program will have been in operation for two years, and therefore, require fewer meetings to conduct its business. The number of board meetings is reduced to two meetings each year. This funding also provides for travel to administer the licensing examination in various locations. (\$11.6)

Contractual: \$ 10.7

This funding provides for printing, advertising, postage and communication costs.

Supplies: \$ 1.0

Funding will provide standard office supplies.

Grand Total: \$ 28.0

REVENUE:

The revenues are based on 40 practitioners paying a licensing fee of \$350 per year. Licenses are issued on a biennial cycle; therefore, revenues are doubled every other year ($40 \times \$350 \times 2 = \$28,000$). As indicated, a license fee of \$350 per year (\$700 biennial), will support the costs of the licensing program in the first year.

Based on 40 practitioners, licensing fees will only be able to cover full program costs with a five-member board every other year unless licensees are willing to pay incredibly high annual licensing fees.

Alaska State Legislature

Sen. Pat Pourchot, Co-Chairman
Sen. Jay Kerttula, Co-Chairman

Sen. Al Adams
Sen. Jim Duncan
Sen. Lyman F. Hoffman
Sen. Dick Shultz
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate Finance Committee

SENATE FINANCE COMMITTEE LETTER OF INTENT

CSSB 40 (FIN)

"Regulating the practice of marital and family therapy."

The Senate Finance Committee is concerned that the license fees reflected in the fiscal note for CSSB 40 (FIN) of \$350 per year will only support the full program costs of the marital and family therapists board every other year unless licensees are forced to pay a prohibitively high annual fee.

This Committee encourages the prime sponsor and both the Governor and the Department of Commerce & Economic Development to make an effort in the next two years to combine the Marital and Family Therapy Board with other boards. We believe this would create administrative costs that can easily be covered by licensing fees each year.

Senator Jalmar Kerttula
Co-Chair
Senate Finance

Senator Pat Pourchot
Co-Chair
Senate Finance

**THE PRECEDING PAGES
WERE TREATED AS A UNIT
IN THE ORIGINAL FILE**

HPB

21

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 25, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 1-30-91

The JUDICIARY Committee considered:

SSHB 21

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 21

THEFT OF POLICE CARS

"An Act relating to the crime of criminal mischief."

RECOMMENDATIONS:

be replaced with _____ [] the same title

[] have attached amendments(s) [] a new title

do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal impact _____

[] fiscal note(s) _____

zero fiscal note LAW, Courts, Pub. Safety, Corrections] zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>David G. Souley</i>				
<i>Larry Martin</i>				
<i>Mark Hamlen</i>				
<i>John P. ...</i>				
<i>H. Eells</i>				
<i>William P. ...</i>				
<i>Michael W. ...</i>				

David G. Souley
Chairman's Signature

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SSHB 21

Revision Date: _____ Department Affected: Department of Law
 Title: "An Act relating to the crime of BRU: Prosecution
criminal mischief." Component: Criminal Justice Litigation
 Sponsor: Representative Barnes
 Requestor: Representative Barnes COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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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						

Estimate of current year impact:

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 25, 1991
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: January 25, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SSHB 21

The sponsor substitute for HB 21 amends AS 11.46.482(a) to add a another offense to the crime of criminal mischief in the second degree, to provide that a person commits this crime if, having no right to do so or any reasonable ground to believe the person has such a right, the person drives, tows away, or takes that propelled vehicle of another and the vehicle is marked as a police or emergency vehicle. This offense is already punishable as a misdemeanor and the bill therefore has the effect of raising the offense to a felony. The department does not believe that enactment of the bill will cause a fiscal impact because this offense occurs infrequently, perhaps just once or twice a year.

FISCAL NOTE

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

Bill No. 8SHB 21

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to the crime of BRU: Trial Courts
criminal mischief Components: _____
 Sponsor: Barnes, Donley, Ulmer
 Requestor: Barnes COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *[Signature]* Phone: 264-8228
 Division: Alaska Court System Date: 01/28/91

Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]* Date: 01/28/91
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SSHB 21

Revision Date: _____
Title: An Act Relating to the Crime
of Criminal Mischief
Sponsor: Rep. Barnes
Requestor: H. Judiciary

Department Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachment

COMPONENT SERIAL NO.

	7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact None

ANALYSIS: (Attach a separate page if necessary)

This bill is not expected to have any fiscal impact upon the Alaska State Troopers.

Prepared by: Gavle A. Horetski Phone: 465-4322
Division: Commissioner's Office Date: 1/28/91

Approved by Commissioner: *Gavle A. Horetski* Richard L. Burton
Agency: Department of Public Safety Date: 1/28/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

BILL NO: SSB 21

DATE: 1/28/91

TITLE: An Act Relating to the
Crime of Criminal Mischief

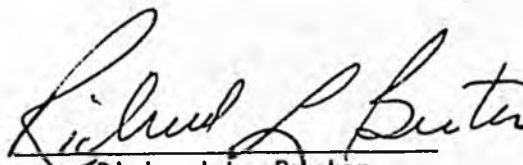
CONTACT: Gayle A. Horetski
Deputy Commissioner

DEPARTMENT OF
PUBLIC SAFETY

POSTUM PHA /

This bill would make it a Class C felony offense for a person to drive, tow, or take a police or other marked emergency vehicle. Although there are only a few such cases per year, the serious nature of the conduct and the danger presented to the public justify felony-level classification.

The Department of Public Safety supports this bill.


Richard L. Burton
Commissioner

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. S.S. HB 21

Revision Date: _____ Department Affected: Corrections
 Title: "An Act Relating to the Crime of Criminal Mischief" BRU: _____
 Component: _____
 Sponsor: Rep. Barnes, Donley, & Ulmer
 Requestor: Bill Sponsor COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

Per discussion with Public Safety personnel, very few of these violations have occurred.

Prepared By: Tom L. Sutton Director Phone: 465-3376
 Division: Administrative Services Date: January 29, 1991
 Approved by Commissioner: [Signature]
 Agency: Department of Corrections Date: January 29, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



OFFICIAL BUSINESS

Alaska State Legislature

House of Representatives

REPRESENTATIVE
RAMONA L. BARNES
DISTRICT 14

ANCHORAGE
2230 PAXSON
ANCHORAGE, ALASKA 99504
(907) 337-7737
(907) 561-2036
BOX V
JUNEAU, ALASKA 99811
(907) 465-3438

TO: Representative Dave Donley, Chair
House Judiciary Committee

FROM: Representative Ramona Barnes

DATE: January 24, 1991

RE: SSHB 21

A handwritten signature in cursive script that reads "Ramona L. Barnes".

Please schedule hearing on SSHB21 as soon as possible. I believe this is very important legislation which should deter potential offenders and hopefully help minimize risk of injury to our police officers, other emergency services personnel, and the public at large.

Sponsor statement, fiscal notes, position papers, and additional backup material are attached.

Thank you for help and assistance, and your co-sponsorship.



OFFICIAL BUSINESS

Alaska State Legislature

House of Representatives

REPRESENTATIVE
RAMONA L. BARNES
DISTRICT 14

ANCHORAGE
2230 PAXSON
ANCHORAGE, ALASKA 99504
(907) 337-7737
(907) 561-2036
BOX V
JUNEAU, ALASKA 99811
(907) 465-3438

January 29, 1991

SPONSOR STATEMENT

Sponsor Substitute for House Bill NO. 21

Sponsor Substitute for House Bill 21 changes the Criminal Mischief statutes by adding a sub-section to AS 11.56.320(a) which would make driving, towing, or taking of a vehicle that is marked as a police or emergency vehicle a class C felony. Under existing statutes, this act would be a misdemeanor.

At least three times since 1986, police vehicles have been unlawfully taken. Each time, serious consequences resulted. I have attached a letter from Officer Linda Branchflower, Anchorage Police Department which outlines these incidents. I believe that because of the nature of the vehicles, this act is much more serious than taking of other vehicles. Police vehicles typically contain weapons as well as radio and other emergency equipment. Additionally, the taking of an emergency vehicle could be the difference between life and death to innocent parties. Therefore, I believe that unlawfully driving, towing or taking of a police or emergency vehicle should be a felony rather than a misdemeanor.



TOM FINK
MAYOR

ANCHORAGE POLICE DEPARTMENT

4501 SOUTH BRAGAW STREET • ANCHORAGE, ALASKA 99507-1599
TELEPHONE (907) 788-8500



January 29, 1991

Representative Ramona Barnes
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Barnes,

I would like to take this opportunity as Deputy Chief of the Anchorage Police Department and President of the Alaska Association of Chiefs of Police to express our support for House Bill 21. There is no question in our minds that the taking of a police car should be treated as a serious offense.

The Anchorage Police Department alone has had some very serious incidents involving the theft of a police car. Hopefully, this small change in the law would have the effect of deterring such crimes.

If I can be of any assistance in the passage of this bill, please contact me.

Sincerely,

Duane S. Udland
Deputy Chief of Police

DSU:vka

P.O. Box 222
Anchorage , AK 99510
November 2, 1990

Rep. Ramona Barnes
Alaska State Legislature
3111 C Street, Suite 420
Anchorage, AK

Dear Ramona,

Thank you for taking the time to talk to me yesterday about my idea to make the taking of a marked emergency vehicle a felony. I know that you have been very supportive of law enforcement in the past. There are many people running now and in the past that pay lip service to law enforcement but do little to back up their claims of support.

Three times since I have been on APD officer's vehicles have been taken with tragic results. The first time was in 1986 when someone took Officer Tanaka's vehicle and later shot and killed Officer Harry Hansen. In 1988 someone took my vehicle and tried to run me down and he was shot in the head. Yesterday an officer tried to stop a person from taking his vehicle and was crushed when the driver pinned him between the police vehicle and another car.

The wording of the law that I proposed was simple, but the idea isn't that complex. I hope that it gives you something to work with.

I really appreciate your assistance. Thank you again for protecting the protectors. What you do for us is very important and we all thank you.

Sincerely,

Linda Blanchflower

HB

24

HOUSE COMMITTEE REPORT

(7) Date Referred: January 21, 1991 FURTHER REFERRALS: Judiciary Finance

Date of Committee Action: 3-6-91

The HEALTH, EDUCATION AND SOCIAL SERVICE Committee considered: HB 24

HOUSE BILL NO. 24 HIV TESTING FOR SEXUAL OFFENDERS

"An Act relating to HIV testing for certain sexual offenders; and providing for an effective date."

RECOMMENDATIONS:
 be replaced with CS HB 24 (HES) the same title
 a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
 fiscal impact DHSS fiscal note(s) _____
 zero fiscal note AK Court Sys zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Cheri Davis</i>				
<i>Patricia...</i>				
<i>Patricia...</i>		<input checked="" type="checkbox"/>		
<i>J. G. Longaba</i>	<i>Betty Davis</i>	<input checked="" type="checkbox"/>		
	<i>Mark...</i>		<input checked="" type="checkbox"/>	
	<i>Mary Miller</i>		<input checked="" type="checkbox"/>	

[Signature]
Chairman's Signature

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill No. CSHB 24

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to blood tests BRU: Trial Courts
for persons charged with violating laws Components: _____
 Sponsor: Sharp
 Requestor: _____ COMPONENT SERIAL NO. 000 | 000 | 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *C. S. Christensen III* Phone: 264-8228
 Division: Alaska Court System Date: 03/04/91

Approved by: Arthur H. Snowden, II, Administrative Director *Stephanie Cole*
 Agency: Alaska Court System Date: 03/04/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

REQUEST: FISCAL NOTE

Revision Date: _____ Agency Affect: Health & Social Services
 Title: HIV Testing for certain BRU: State Health Services
sexual offenders
 Sponsor: Sharp, Gruenberg Components: AIDS
 Requester: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
Personal Services		2.9	2.9	2.9	2.9	2.9
Travel						
Contractual		0.1	0.1	0.1	0.1	0.1
Supplies		0.3	0.3	0.3	0.3	0.3
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	3.3	3.3	3.3	3.3	3.3

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
----------------	------------	------------	------------	------------	------------	------------

REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
----------------	------------	------------	------------	------------	------------	------------

FUNDING: (Thousands of Dollars)

General Funds	0.0	3.3	3.3	3.3	3.3	3.3
Federal Funds						
Other						
TOTAL	0.0	3.3	3.3	3.3	3.3	3.3

POSITIONS

Full-Time		0				
Part-Time		0				
Temporary		0				

ANALYSIS: (attach a separate page if necessary)

These dollars are based on 160 sexual offenders entering corrections yearly, and 1.04% testing positive. The number of sexual offenders entering corrections is on the decline. Even with an increase in individual test costs, the total amount should not increase.

Cost for tests are for the initial test are \$18.25 for personal services and \$1.75 for supplies. Cost for confirmatory test after initial positive test is \$55.00 by contract.

Prepared By: Alfred G. Zangri *[Signature]*
 Division: PUBLIC HEALTH

Phone: 465-3090
 Date: 02/13/91

Approved By Commissioner: Theodore Mala, M.D., MPH *[Signature]*
 Agency: HEALTH & SOCIAL SERVICES

Date: 2/20/91

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill No. HB 24

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to HIV testing for BRU: Trial Courts
certain sexual offenders Components: _____
 Sponsor: Sharp, Gruenberg
 Requestor: Sharp COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 02/06/91

Approved by: Arthur H. Snowden, II, Administrative Director *Stephanie Cole, for*
 Agency: Alaska Court System Date: 02/06/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. H.B. 24

Revision Date: _____ Department Affected: Corrections

Title: "An Act relating to HIV testing for BRU: certain sexual offenders....effective date"
Component: _____

Sponsor: Rep. Sharp

Requestor: _____ COMPONENT SERIAL NO.

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
----------------	------------	------------	------------	------------	------------	------------

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
----------------	------------	------------	------------	------------	------------	------------

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Tom Sutton, Director *Tom Sutton* Phone: 465-3376

Division: Administrative Services Date: 02-12-91

Approved by Commissioner: *John W. King*

Agency: Department of Corrections Date: 02-12-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 24

Revision Date: _____
Title: An Act relating to HIV testing
for certain sexual offenders: ...
Sponsor: Reps. Sharp & Gruenberg
Requestor: H. HESS

Department Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments

COMPONENT SERIAL NO.

	7	9	9
--	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
----------------	-------	-------	-------	-------	-------	-------

REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
----------------	-------	-------	-------	-------	-------	-------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

POSITIONS:

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

Estimate of current year impact None.

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact is anticipated.

Prepared by: Gayle A. Horetski Phone: 465-4322
Division: Commissioner's Office Date: 2/14/91
Approved by Commissioner: *G.A. Horetski* for Richard L. Burton
Agency: Department of Public Safety Date: 2/14/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska State Legislature

REPRESENTATIVE
BERT SHARP

DISTRICT 20

MEMBER
FINANCE COMMITTEE

FINANCE SUBCOMMITTEES:
GOVERNOR
FISH AND GAME
LABOR



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House of Representatives

M E M O R A N D U M

TO: Representative Dave Donley, Chairman
House Judiciary Committee

FROM: Representative Bert Sharp 

DATE: April 18, 1991

SUBJ: HB24, blood tests for certain persons charged with violating laws.

April is Sexual Assault Awareness Month and April 21 - 27 is National Victims' Rights week. I strongly urge that HB 24 be scheduled for a hearing before the Judiciary Committee to coincide as closely as possible to these recognition periods.

Attached is an Executive Summary prepared by the National Victim Center which highlights citizens' attitudes about victims' rights and violence. Probably the most significant finding in this study is the high percentage of Americans who favor AIDS testing in rape cases. Ninety-six percent of those surveyed favor AIDS testing after arrest in rape cases, and 73% favor AIDS testing after conviction in rape cases.

This is a sensitive issue. However, I believe the committee deliberation process provides the best method for striking a balance of needs.

cc: Judiciary Committee Members



REPRESENTING
GOLDEN HEART
OF ALASKA



**National
Victim Center**

**AMERICA SPEAKS OUT:
*CITIZENS' ATTITUDES ABOUT
VICTIMS' RIGHTS AND VIOLENCE***

EXECUTIVE SUMMARY

APRIL 18, 1991

307 West 7th Street
Suite 1001
Fort Worth, Texas 76102
(817) 877-3355
(817) 877-3396 (FAX)

555 Madison Avenue
Suite 2001
New York, New York 10022
(212) 753-6880
(212) 753-0149 (FAX)

CITIZENS' ATTITUDES ABOUT

CURRENT BALANCE OF RIGHTS

Do you think the current balance between victims' rights and defendants' rights...?

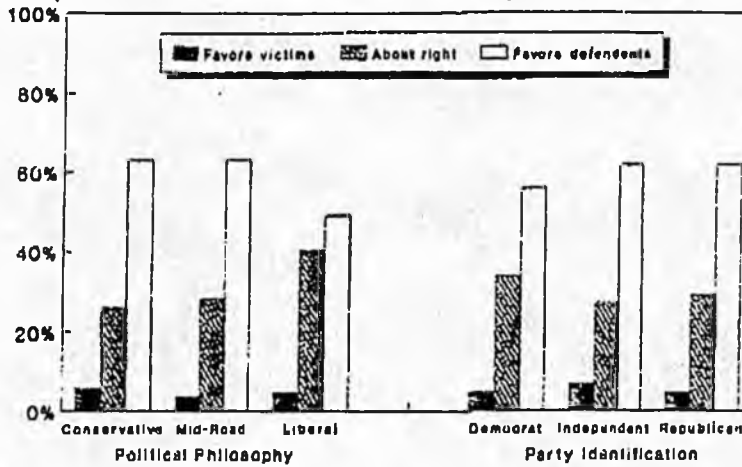


Figure 1

Although those accused of crimes are guaranteed their day in court, the American judicial system does not guarantee that the victims of those crimes must be heard. To give victims, their families and the American public an opportunity to be heard, the National Victim Center commissioned the first national public opinion survey on American attitudes about crime and victims' rights. The survey examined the effect of crime and fear of crime on the public; the public's rating of the performance of the various elements of the criminal justice system; and public opinion on some of the key issues related to victims' rights that are currently being debated at the national and state levels.

The survey was directed for the National Victim Center by Dr. Dean Kilpatrick, Chairman of the Center's Research Advisory Committee. Dr.

Kilpatrick is a national expert in crime victimization studies; he is Director of the Crime Victims' Research and Treatment Center at the Medical University of South Carolina in Charleston.

The survey was conducted by Schulman, Ronca and Bucuvalas, Inc. (SRBI), a national survey research organization in New York City. Telephone interviews were conducted among a national cross-sectional sample of 1,000 adults, sampled by random digit dialing.¹ The survey was conducted between March 8 and March 17, 1991.

The survey found that the American public, as well as crime victims and their families, are critical of the current orientation of the criminal justice system. Nearly half of those interviewed (48%) feel that the criminal justice system in their state treats

defendants better than victims. By contrast, only 38% feel that defendants and victims are treated equally by the criminal justice system in their state, while 5% feel that victims are treated better. Overall, the survey found that the majority of the American public (61%) thinks that the current balance between victims' rights and defendants' rights favors defendants too much. This is true regardless of political philosophy or political party (See Figure 1).

The public's attitudes about the performance of the criminal justice system is embedded in personal experiences and concerns about crime.

¹ The margin of sampling error for a simple random sample of this size is ± 3.1 percentage points at the 95% confidence level. Survey estimates are subject to non-sampling as well as sampling error.

CONCERN ABOUT SOCIAL ISSUES

How concerned are you, personally, about each of the following social problems?

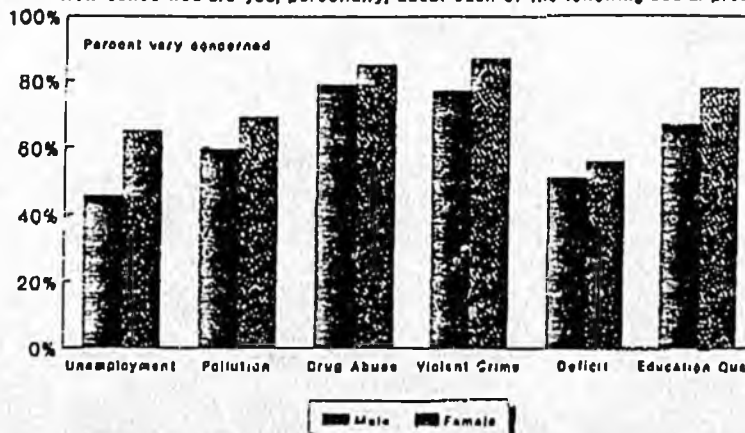


Figure 2

More than four out of five Americans (82%) are personally "very concerned" about violent crime. This makes violent crime, along with drug abuse, the public policy issues that generate the broadest public concern (See Figure 2).

The survey found that a majority of Americans (54%) reports that violent crime is more of a problem in their communities now than it was ten years ago (See Figure 3). Reports that violent crime is becoming more of a problem in their community are more common among those living in central cities (67%) than those living in suburbs (51%) or non-metropolitan areas (43%). Nonetheless, it is widespread even outside of the central cities. The survey also finds that violent crime is becoming more of a problem particularly in Southern (64%) and Western (58%) communities.

A majority of those interviewed report that they are at least a little fearful of being attacked or robbed:

- When traveling on vacation or business (72%);
- Out alone at night in their own neighborhoods (61%);
- At home in their own house or apartment (60%) (See Figures 4 and 4a).

The fear of crime restricts the freedom of Americans to go where they

want, when they want (See Figure 5). Because of the threat of crime, the lifestyles of many Americans are restricted. The freedom of women is particularly restricted by this threat. The survey finds that due to fear of crime:

- 60% of all Americans limit the places they will go by themselves, but women are far more likely than men to do so (73% vs. 45%);
- Almost a third (32%) of all Americans limit the places or the times they go shopping, but over

twice as many women as men suffer this restriction (45% vs. 18%);

- More than one American in five (22%) limit the types of places or times they work, but women were over twice as likely as men to be restricted in this fashion (30% vs. 13%);
- One in four Americans (25%) has installed home security systems, with approximately the same proportion of women and men having done so (26% vs. 23%).

Perhaps most dramatically, nearly one out of five American adults (18%)

CHANGES IN VIOLENT CRIME

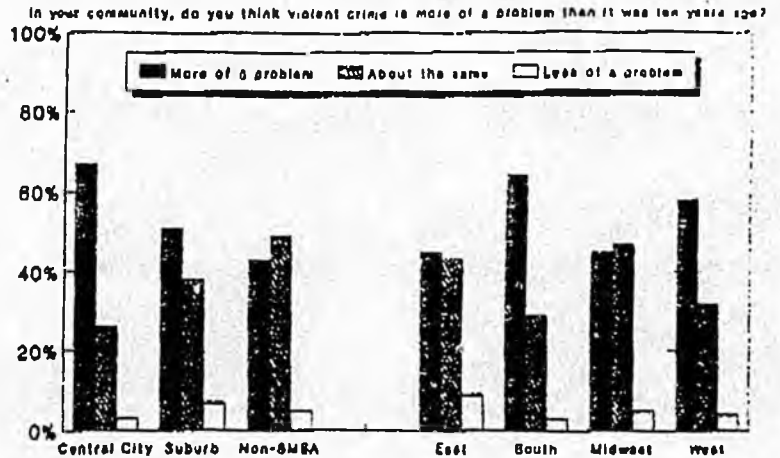


Figure 3

FEAR OF CRIME

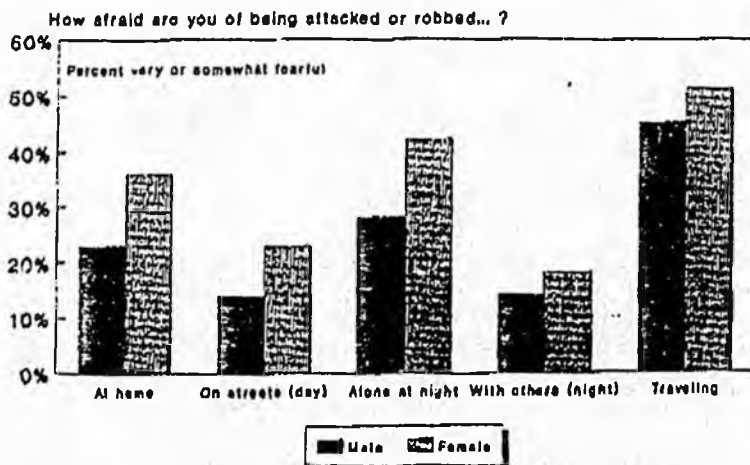


Figure 4

CITIZENS' ATTITUDES ABOUT

FEAR OF CRIME

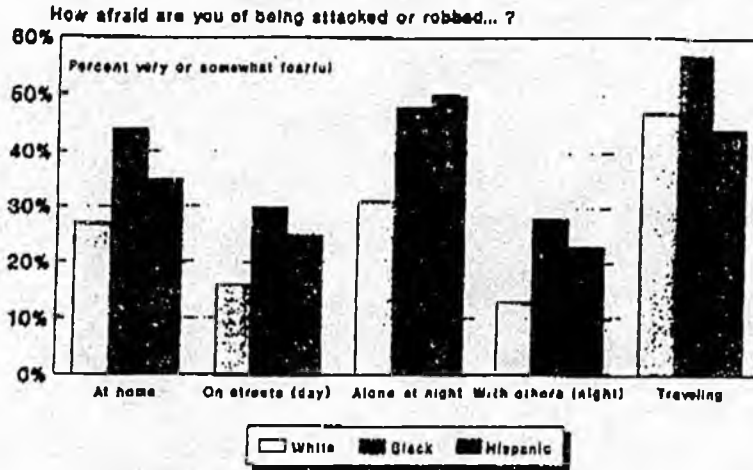


Figure 4a

reports that fear of crime has caused them to purchase a weapon for self-protection, with approximately the same proportion of men (20%) and women (16%) arming themselves.

Americans' concern about crime appears well justified. More than one out of five adults (21%) report that they have been a direct victim of a violent crime. Indeed, one out of ten Americans (10%) reports being a direct victim of a violent crime within the past four years. There is relatively little difference in the risk of violent crime by income. Among those with household incomes over \$75,000, the survey finds 19% have been victims of violent crime. By comparison, 22% of those with incomes of \$15,000 or less have been victims of violent crime. However, there are ethnic and racial differences in the risk of victimization.

The survey finds that blacks (28%) and Hispanics (30%) are more likely than whites (19%) to be victims of violent crime.

In addition to their direct experiences with violent crime, many Americans have also experienced indirect victimization due to the homicide death of a family member or close friend (9%), or the death (13%) or serious injury (4%) of a family member or close friend caused by a drunk driver. In total, almost four out of ten Americans (39%) have been either direct or indirect victims of violent crime (See Figure 6).

Based on personal experiences and what they have heard, Americans are not well pleased with the performance of many central actors in the criminal justice system (See Figure 7). The survey found that the public rates the

police highest in accomplishing their part of the criminal justice mission, with 64% rating the police as "excellent" or "good." A plurality of the public (48%) rates prosecutors as excellent or good in performing their part of the criminal justice mission, but 43% rates them as "only fair" or "poor."

By contrast to police and prosecutors, the public is far more critical of the performance of judges, prisons and parole boards in accomplishing their mission. A plurality of the public (48%) rates judges as "only fair" or "poor" in doing their job for the criminal justice system. A majority rates the job being done by prisons (55%) and parole boards (57%) as "only fair" or "poor."

Americans' attitudes about the appropriate balance between victims'

FEAR OF CRIME AND LIFESTYLES

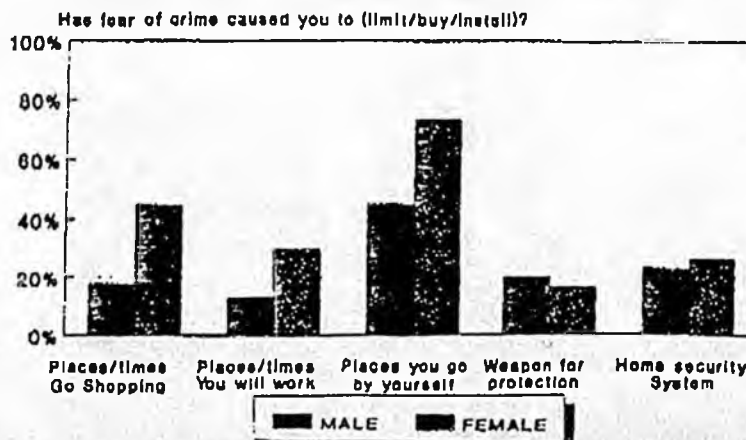


Figure 5

and defendants' rights begins from the point of arrest. For example, 96% of the public favor laws which would require persons arrested for rape to be tested for AIDS so that victims could be notified about their risk. And, three percent out of the four percent who do not approve of AIDS testing at the point of arrest say that they would favor laws requiring persons convicted of rape to be tested for AIDS. Thus, the survey found that virtually all Americans (99%) favor AIDS testing of those convicted of rape (See Figure 8).

During the judicial process, the vast majority of Americans feels that it is "very important" for the judicial system to provide victims and their families with:

- the right to be notified about the dates and places of trials and related hearings (84%);
- the right to be physically present at trials and related hearings (82%);
- an opportunity to discuss the case with the prosecutor during any plea bargaining process (72%); and
- an opportunity to discuss the case with the prosecutor during trial (57%) (See Figure 9).

Americans are particularly critical of current sentencing of convicted criminals. The majority of survey respondents (55%) says that sentences

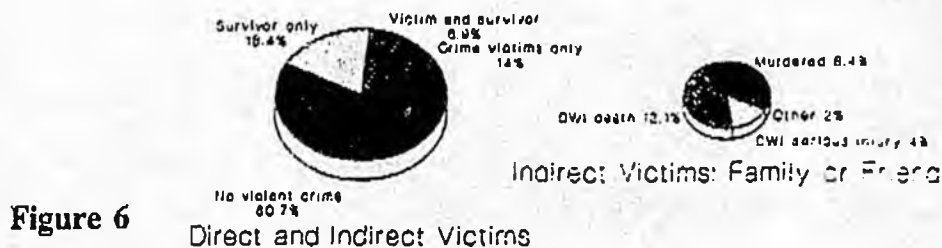
handed down to criminals by courts in their communities are too lenient. Only 37% of Americans feel that the sentences being handed out in their communities are about right. Perhaps because of this, seven out of ten respondents (72%) think it is very important that victims and victims' families have an opportunity to make a statement prior to the sentencing of the offender about how the crime has affected them. Americans also favor greater truth in sentencing. Four out of five (82%) think it is very important that juries be told how much time a

criminal will actually have to serve when the criminal is given a particular sentence.

These concerns about the balance of victims' and defendants' rights extend to cases involving the death penalty. It should be noted that the survey finds that most Americans currently approve of the death penalty in at least some cases. Four out of five Americans (81%) believe that the death penalty should be imposed for serious crimes, while 15% believe that the death penalty should never be imposed.

As noted earlier, the majority of this

VICTIMS OF VIOLENT CRIME



Have you ever been the victim of a violent crime or other crime involving the use or threat of force? Have a close friend or family member ever been murdered, or been seriously injured or killed by a driver who had been drinking or using drugs?

RATING CRIMINAL JUSTICE AGENCIES

How would you rate the agencies that serve your community in their part of the criminal justice mission?

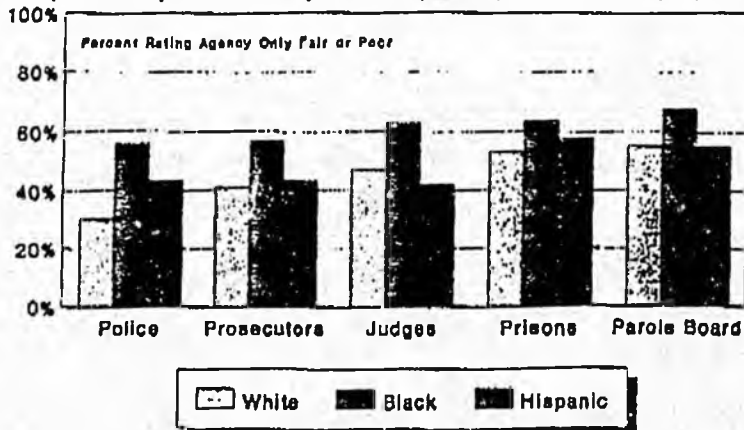


Figure 7

CITIZENS' ATTITUDES ABOUT

AIDS TESTING IN RAPE CASES

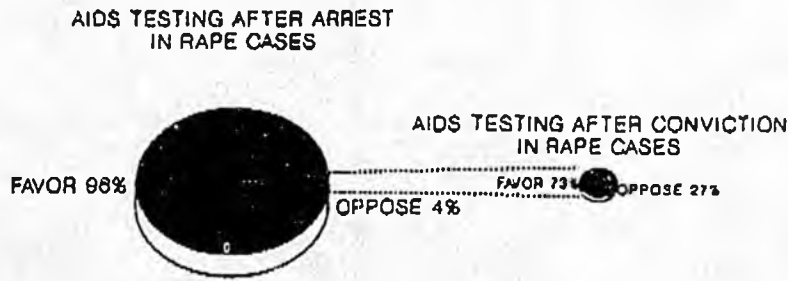


Figure 8

Do you favor or oppose laws which would require persons arrested on charges of rape to be tested for AIDS, so that victims could be notified about their risk?

Do you favor or oppose laws which would require that persons convicted of rape be tested for AIDS?

national sample of the public believes that victims and their families should be permitted to make impact statements as part of the sentencing process. The U.S. Supreme Court has recently ruled that family members cannot tell the jury about how the crime affected their family during sentencing proceedings in cases involving the death penalty. Americans disagree with this ruling, with 69% saying that the jury should be allowed to consider the crime's effect on the victim's family when making decisions about what the sentence should be in cases involving the death penalty (See Figure 10). Americans also favor expedited appeals of cases involving the death penalty, an issue which is a key component of the Bush Administration's Comprehensive Violent Crime Control Act of 1991. So long as the defendants' rights were

protected, 80% of the public supports an expedited appeals process for death penalty cases to reduce the time that such cases remain pending (See Figure 10). Indeed, the expedited appeals process for capital cases is approved by majorities of those who consider themselves as "liberal" (69%) as well as "middle-of-the-road" (83%) and "conservative" (83%).

There is also a strong sense that convicted criminals should not profit from their crimes. Three-quarters of the public (76%) favor laws which prevent convicted criminals from profiting from their crimes through the sale of books, movies or interviews about their crimes. An even larger proportion of those interviewed (86%) favors laws that require profits made by criminals from books, movies or interviews about their crimes be given

to their victims or state victims' compensation funds (See Figure 10).

At the same time, Americans think that criminals should pay for the cost of their crime to the victims and to society. The survey found that 81% of the public think that it is very important that the judicial system provides victims and their families with the right to be paid by the convicted criminal for stolen or damaged property or for injuries received in the crime. Moreover, 94% of Americans favor requiring convicted criminals to pay a substantial share of the cost of their imprisonment (See Figure 10).

Concern about crime and victims' rights leads a majority of Americans to support a wide range of activities to reduce the risk and consequences of criminal victimization (See Figure 11). Sixty-two percent of those interviewed

SUPPORT FOR VICTIMS' RIGHTS

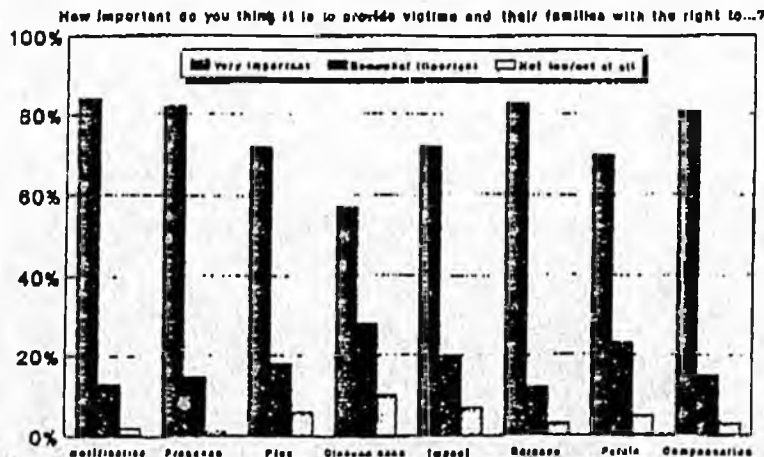


Figure 9

say that they probably or definitely would pay higher taxes to improve the criminal justice system. An even larger 70% would probably or definitely pay higher taxes to improve services to crime victims.

However, the strongest and most widespread support is found for stronger statutory and constitutional protection for victims' rights. Eight out of ten of those interviewed (81%) say that they would probably or definitely pressure the government to pass laws to improve victims' rights. Further, the survey finds that nine out of ten Americans (89%) would probably or definitely support an amendment to their state's constitution which would increase victims' rights protection. Indeed, nearly half (49%) of those surveyed say that they would definitely support a state constitutional amendment to increase victims' rights protection (See Figure 11). Only six states currently offer constitutional protection of victims' rights; the National Victim Center is providing support and technical assistance to additional states which are seeking victims' rights constitutional amendments. Moreover, three quarters of the public (76%) think that crime victims should have the right to sue public officials who do not provide them with their rights under the law.

Public concern about the performance

PENDING NATIONAL PUBLIC POLICY ISSUES

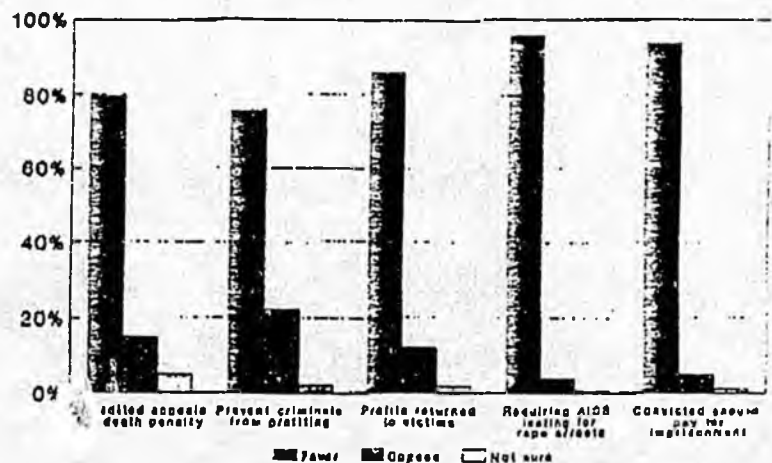


Figure 10

of the criminal justice system and its fairness in treating victims has some major ramifications. One of these ramifications lies in the perception of a significant proportion of the public (39%) that vigilantism in America has increased over the past 10 years, while only 9% believe that it has decreased. Moreover, the survey found that in 1991, one out of every three Americans (33%) believes that vigilantism is justified, at least under certain circumstances.

The survey also found that Americans are critical of how violence

is portrayed in the popular media. Four out of five Americans (80%) think that there is too much violence in the popular media, such as television, movies and books. Moreover, the public feels that violence in the media has an impact on violence in society. Nearly a quarter of those interviewed (23%) feel that seeing violence in the media leads to violence in a lot of people, while 33% think that it leads to violence in a few people. Only a minority of Americans (37%) believes that violence in the media leads to violence only among those who are

SUPPORT FOR VICTIMS' RIGHTS

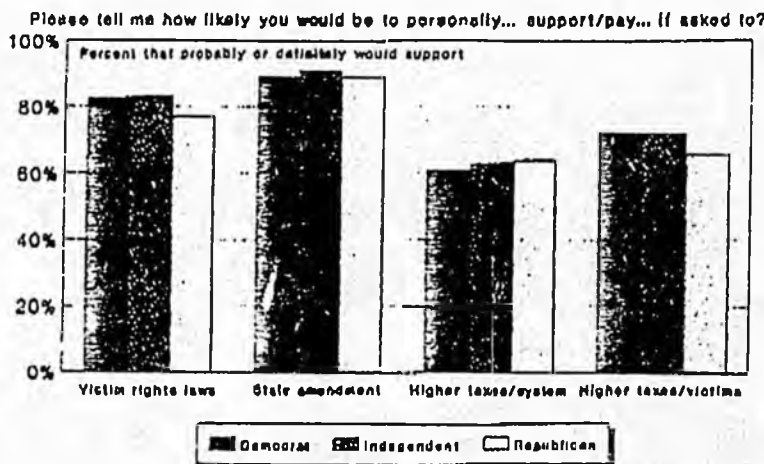


Figure 11

already disturbed, while very few Americans (4%) believe that seeing violence in the media leads to violence in almost no one (See Figure 12).

This survey was commissioned by the National Victim Center, a non-profit organization founded in 1985 to spearhead the fight for rights of victims of violent crime. The Center, with offices in New York City, Washington, D.C., and Fort Worth, Texas, was established as an advocacy and resource center in honor of Sunny von Bulow.

For further information about *America Speaks Out: Citizens' Attitudes About Victims' Rights and Violence*, please contact Anne Seymour, the Center's Director of Communications and Resource Development, at (817) 877-3355.

VIOLENCE IN THE MEDIA

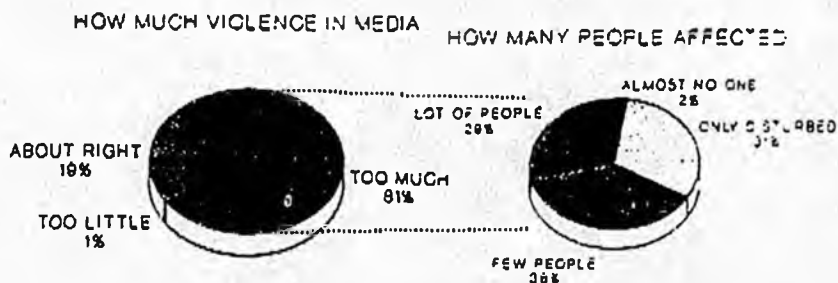


Figure 12

The National Victim Center

The National Victim Center was founded in 1985 to promote the rights and needs of violent crime victims, and to educate Americans about the devastating effect crime has on our society.

Today, there are almost 8,000 victim service and criminal justice organizations in all fifty states which benefit from the National Victim Center's programs and services. These groups serve a wide range of constituents, including victims of child abuse and neglect, sexual assault, family violence, elder abuse, drunk driving, hate violence, and survivors of homicide victims.

The Center's many programs include:

- Training and technical assistance

to strengthen the abilities of victim advocates and criminal justice officials to assist and support crime victims;

- An extensive resource library which contains over 10,000 documents on every aspect of violent crime, criminal justice and victimology;
- The Crime Victims' Litigation Project with 5,000 cases and authorities to assist victims' attorneys in civil litigation cases;
- A legislative data base containing 17,500 victims' rights statutes in all fifty states and at the Federal level to support the Center's efforts to protect victims' rights through strong laws;
- A public awareness program

which provides resources and experts for over 1,000 news media nationwide; and

- A National Speakers' Bureau with experts and authorities on victims' issues.

In 1990, there were 35 million victims of crime, including almost six million who fell prey to violence. The U.S. Department of Justice estimates that five out of six of today's twelve-year-olds will become victims of violent crime during their lifetimes. These painful statistics represent countless individuals whose lives are irrevocably altered by violence. These innocent victims are the ultimate reason the National Victim Center exists.

Alaska State Legislature

REPRESENTATIVE
BERT SHARP

DISTRICT 20

MEMBER
FINANCE COMMITTEE

FINANCE SUBCOMMITTEES.
GOVERNOR
FISH AND GAME
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WHILE IN JUNEAU
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STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3004/3018

House of Representatives

MEMORANDUM

TO: Representative Dave Donley
Chairman, Judiciary Committee

FROM: Representative Bert Sharp *BMS*

DATE: March 19, 1991

SUBJ: CS HB 24, hearing request

Attached is the sectional analysis of CSHB24 (HESS), and a sponsor statement explaining the need for this legislation.

I respectfully request that a hearing be scheduled in the Judiciary Committee to consider the merits of CSHB24.

It is my understanding that the Network for Domestic Violence and Sexual Assault will be meeting in Juneau on April 3, 4, and 5. It would be helpful if a hearing could be scheduled during this time frame to accommodate testimony in person rather than via teleconference.



REPRESENTING
GOLDEN HEART
OF ALASKA

Alaska State Legislature

REPRESENTATIVE
BERT SHARP

DISTRICT 20

MEMBER
FINANCE COMMITTEE

FINANCE SUBCOMMITTEES:
GOVERNOR
FISH AND GAME
LABOR



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WHILE IN JUNEAU
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STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3004/3018

House of Representatives

Sponsor Statement CSHB24

The objective of this proposed legislation is not unique. It does not plow new ground. I believe this legislative merely updates present law by recent recognition of new viruses.

One of the most significant elements of state government is its duty to protect the public from the spread of communicable diseases. Alaska law upholds this obligation by requiring blood tests of pregnant women to determine the presence of syphilis (AS 18.15.150). And, where it is believed to be necessary to preserve and protect public health, persons can also be ordered to submit to an examination to detect the presence of tuberculosis. (AS 18.15.135). The present policy of the Department of Corrections requires a blood test on all persons incarcerated over 14 days to determine the presence of Hepatitis.

CSHB 24 is designed to safeguard certain crime victims and public safety personnel by making available information regarding risks to their health and relieving them of fear of infection from all communicable diseases including AIDS.

Alaska's duty to protect crime victims, peace officers, and emergency personnel is substantial. Therefore, it is not



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unreasonable to warrant blood testing of defendants charged with certain crimes to determine the presence of the human immunodeficiency virus (HIV) and other communicable diseases.

The implied intrusion from a court mandated blood test is further minimized when compared to the advantages that may be gained from informing a crime victim as well as the offender whether he is at risk of infection, particularly with the AIDS virus. Recent information indicates early detection of the presence of the HIV virus is extremely advantageous in providing effective treatment to hinder development of AIDS.

In addition, it is known that AIDS antibodies may usually be detected in the blood anywhere from two weeks to three months after infection, and sometimes longer. If the defendant did infect the victim with AIDS, but the presence of antibodies cannot yet be detected in the victim's blood, the victim may infect someone else before learning he carries the AIDS virus. Therefore, the most timely way to find out whether the victim has been infected is to test the defendant. The risk that the victim may unknowingly infect others gives added weight to the government's interest in testing defendants charged with crimes.

The great danger AIDS presents to our society and the rapid spread of the disease in recent years presents the government with a strong interest in establishing greater health safety standards. CSHB 24 does just that.

AIDS is not a political debate or opinion - it is a life threatening illness. When it threatens the lives of innocent victims, it is in the public interest that government step in and take action.

CSHB 24
SECTIONAL ANALYSIS

Section 1. Sets forth the legislative findings and intent relating to AIDS and other communicable diseases as they pertain to the health and safety of the public, victims of certain crimes and employees put at risk in the course of their official duties.

Section 2. Adds a new section to AS 18.15. (Health & Safety) to allow blood tests of certain defendants.

Sec. 18.15.250 Sexual offenses.

a & b) Victims of a sexual assault may petition the court for an order requiring the defendant charged of the offense to submit to a blood test for the purpose of determining the presence of the human immunodeficiency virus (HIV) and other communicable diseases.

c) The court shall conduct a hearing to determine if probable cause exists to believe there was an exchange of body fluids and issue an order accordingly.

d) Test results shall be disclosed to defendant, the victim or the victim's designee, and the chief medical officer of the facility in which the person is incarcerated or detained.

Sec. 18.15.250 Assaults on certain persons.

a & b) Peace officers, firefighters, correctional employees, or emergency medical personnel who are victims of an assault where there is an exchange of body fluids may petition the court for an order requiring the defendant charged of the offense to submit to a blood test for the purpose of determining the presence of the human immunodeficiency virus (HIV) and other communicable diseases.

c) The court shall conduct a hearing to determine if probable cause exists to believe there was an exchange of body fluids and issue an order accordingly.

d) Test results shall be disclosed to defendant, the petitioner, and the officer in charge of the facility in which person is incarcerated or detained.

Sec. 18.15.270. Testing and test results.

a & b) Outlines procedures for which testing may be performed and the types of tests to be conducted.

c) Test results shall be provided to Department of Health & Social Services.

d) Disclaimer shall be provided to recipients of the test results which state that results are not absolutely accurate and persons receiving results should monitor their own health and consult a physician as appropriate.

e) Minor's provision - test results of a minor shall be disclosed to parent or guardian.

f) All persons receiving test results must maintain confidentiality of information received except as necessary to receive medical or psychological care.

g) Specimens and results are not admissible evidence in a criminal or juvenile proceeding.

h) Civil liability immunity to all persons performing testing, transmitting test results, or disclosing information in accordance with provisions of this law.

Sec. 18.15.280. Persons in custody.

a & b) Medical personnel who have knowledge of an inmate's (including minors) exposure to or infection by the HIV virus or other communicable disease, including a positive test result or a statement made to the medical personnel, must convey this information to the officer in charge of the facility where the person is incarcerated or detained.

c) The officer in charge of the facility must notify all employees, medical personnel, contract personnel, and volunteers providing services at the facility who may have direct contact with the inmate or minor in question so that appropriate action for protection and safety can be taken.

d) Confidentiality must be maintained except as necessary to obtain medical or psychological care.

e) Persons who intentionally disclose personal identifying data regarding information obtained under this section are guilty of a class A misdemeanor.

Sec. 18.15.290. Definitions

Sectional Analysis

CSHB24

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HB 24

Representative Dave Donley, Chair
Judiciary Committee
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Representative Donley:

I am writing to inform you of a very serious matter that has arisen as a result of HB 24. Attached, you will find a copy of a flyer that was posted on the office of the Interior AIDS Association (IAA) and several other locations in Fairbanks regarding HB 24. You will note that the individual or individuals posting the flyer did not reveal their identity. As a co-founder and former Chair of the IAA, and as a current member of the Board of Directors, I am sending you this flyer so you can be aware of the consequences that HB 24 is already bringing. There appears to be a veiled slur against those who would disagree with the premise of this bill. We assume that whoever wrote the bill would not applaud "gay rights", but we would like to point out that this is not a gay or straight issue. We are simply pointing out that HB 24 does not address the issue of HIV-infection nor help the victims of sexual assault.

The number of individuals who commit sexual assault are very small relative to the numbers of individuals at-risk for transmitting or being infected by the HIV-virus. The notion that those of us who do not agree with HB 24 feel that the victims of sexual assault could not handle the information is far from the truth. Instead, we reiterate the fact that there is **NO ADVANTAGE** in knowing the HIV-status of an individual to **ANYONE OTHER THAN THE INDIVIDUAL WHO IS HIV-POSITIVE**. If an individual has been exposed to the blood or sexual fluids of an HIV-positive individual - knowledge of that fact **AFTER THE EXPOSURE** does **NOTHING** to reduce the risk that transmission occurred or to provide information on the affected persons status. The only way for an individual to know whether they have contracted HIV, either through sexual assault is for **THE CONCERNED INDIVIDUAL TO BE TESTED**. We hope that all state agencies and non-profits would advise all victims of sexual assault to be tested for HIV, but there is nothing in this legislation that encourages, supports or involves counseling of victims of sexual assault. Knowing the HIV-status of another person, regardless of whether that person is positive or negative, says **NOTHING** about your HIV-status.

House Bill 24 also seeks to pass HIV-test information to EMTs and law officials that may have had contact with the convicted individual. As with the protection of the victims of sexual assault, we applaud this goal. However, this bill merely promotes hysteria and fear in these professions, and does nothing to **PROTECT** or **ASSIST** them. All trained medical and health care personnel are aware of the Universal Health Precautions that, if followed, will greatly reduce their risk of HIV-infection. The proper precaution is **TO ASSUME THAT ANYONE TO WHOM YOU ARE REQUIRED TO GIVE EMERGENCY MEDICAL ASSISTANCE MAY BE HIV-POSITIVE**, and take the proper precautions. HIV is not transmitted by casual contact, it is not transmitted by biting, spitting or coughing. Unless an individual has exchanged blood or sexual fluids with an HIV-positive individual, there is no risk. There is **NO ADVANTAGE** to EMTs or police officers to know the status of another person. Once again, the only way for an individual to know whether they have contracted HIV through contacting blood is for **THE CONCERNED INDIVIDUAL TO BE TESTED**.

The Board of the IAA is sure that the sponsors of the bill feel they are working towards a solution to the spread of HIV and, most importantly, towards the protection of victims of sexual assault. We applaud these goals. However, House Bill 24 will achieve neither. In fact, it will hurt victims of sexual assault and impede the efforts of organizations working to educate our communities on the risk of AIDS.

We cannot over-emphasize how dangerous and ineffective we feel House Bill 24, if passed, would be. House Bill 24 promotes the dangerous illusion that we are dealing with AIDS, but it will only force people away from the realization that they are particularly vulnerable. This bill will further stigmatize HIV-positive individuals by once again associating the illness with 'deviant' or illegal behavior. The flyer you see attached is just the start of the kind of activity that HB 24 will encourage and sanction. Worse, it will promote the illusion that the 'average' person is not at-risk for AIDS while doing nothing for sexual assault victims.

House Bill 24 is also an example of the type of potential state-sanctioned violation of personal rights that all HIV-positive individuals fear. The argument that AIDS should be treated like any other sexually transmitted disease when it comes to testing and reporting is fallacious and based on a misunderstanding of the AIDS epidemic. AIDS is NOT like other sexually transmitted diseases. Most notably, it is not curable. More important however, is that individuals with other sexually transmitted diseases are not singled out by society for discrimination. People do not lose their jobs if they are diagnosed with gonorrhea; they are not denied housing, insurance, or medical care if they are found to have syphilis; and no other diagnosis of a sexually transmitted disease will subject a rapist to a potential murder charge or result in isolation from the general prison population. With a diagnosis of HIV-positive, these are common occurrences.

We must come to grips with the reality of what the AIDS epidemic is about. It is about the RISKS ASSUMED THROUGH PERSONAL BEHAVIOR - not about the risk IMPOSED upon us by other individuals. HIV-infection is growing at its fastest rate among young women between the ages of 18 and 30 - not from sexual assault or drug use, but from consensual sexual relations !! The second highest rate of infection is among teenagers, an equally high rate for men and women, once again from consensual sexual contact. By furthering the false impression that only victims of sexual assault are at-risk, or that only those who are rapists, gay or drug-users are HIV-positive, is to place one more barrier in the way of effective AIDS education, and to help condemn our teenagers, especially young women, to death.

We must not ignore the fact that it is our sisters and brothers, spouses, loved ones, family members and friends who are really at the greatest risk. Groups like the Interior AIDS Association, the Anchorage AIDS Assistance Association, and Shanti Juneau, are doing a great deal to educate local high-risk groups. In Fairbanks, the IAA is working with gay and bisexual males, teens, women at-risk and IV drug users. We are also actively educating the general population. These efforts will continue, and we hope the legislature will assist us in continuing our efforts.

We again encourage our law makers to reject this bill and the dangerous misconceptions upon which it is based. Given that the knowledge of someone's HIV-status does NOTHING to protect or give piece of mind to another person, we urge you to oppose any bill that requires mandatory testing of ANYONE or mandatory REPORTING of HIV-test results. Instead we urge you to support legislation or resolutions that will encourage statewide education regarding HIV, promote voluntary, confidential HIV-testing, and support alternative testing sites, while at the same time protecting the civil rights and privacy of individuals who are HIV-positive.

Sincerely,



Mark A. Tumeo, Ph.D., P.E.

Past Chair and current Member of the Board of Directors, Interior AIDS Association

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