

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7454 SENATE JUDICIARY

S B

17

**SEVENTEENTH LEGISLATURE
SENATE JUDICIARY COMMITTEE BILL FILE**

BILL NUMBER: SB 17
 ABBREVIATED TITLE: Fingerprinting Minors

SPONSER: Fischer; Pearce ORIGINAL RECEIVED: 1-30 from State Affairs
 WRITTEN REQUEST TO SCHEDULE REC'D: 1-30 FROM: Fischer
 SPONSER'S STATEMENT REC'D: _____ FROM: _____
 SECTIONAL ANALYSIS RQST'D: _____ FROM: _____
 SECTIONAL ANALYSIS RECEIVED: With Bill

FISCAL NOTE (ORIGINAL)

RQST'D OF: _____ REC'D FROM: Public Sfty DATE: With Bill File
 RQST'D OF: _____ REC'D FROM: _____ DATE: _____
 RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FISCAL NOTE (C.S.)

RQST'D OF: _____ REC'D FROM: _____ DATE: _____
 RQST'D OF: _____ REC'D FROM: _____ DATE: _____
 RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FIVE DAY NOTICE GIVEN: _____ NOTICE OF HEARINGS GIVEN: _____
 COMMITTEES OF REFERRAL: FIRST: St Aff SECOND: Jud THIRD: _____

COMMITTEE ACTION

DATE:

2-4 Considered - Prepare CS Expansion & limiting to enter into system.
2- Add - many has fingerprinted - added
Passed in Individual Rec.

SEE HB 103 - Read here 14 March 91

PERSONS TO BE NOTIFIED OF HEARING

1. SPONSOR Fischer - Sm by Newborn - Rm 423 - 6. _____
2. AGENCY Public Sfty - will attend 7. _____
3. house atty - 8. _____
4. _____ 9. _____
5. _____ 10. _____

ask Public Sfty - would this allow consideration of James Beard in adult sentencing?

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 17

Revision Date: _____
Title: An Act Relating to the
Fingerprinting of Minors
Sponsor: Sen. Fischer
Requestor: Senate State Affairs

Department Affected: Public Safety
BRU: DPS Statewide Support
Component: AK Criminal Records & ID

COMPONENT SERIAL NO.

1	1	9	0
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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	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0

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

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

GENERAL FUND	10.0	10.0	10.0	10.0	10.0	10.0
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

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 _____

ANALYSIS: (Attach a separate page if necessary)

(See attached).

Prepared by: Ken Bischoff Phone: 465-4336
Division: Administrative Services Date: 1/25/91

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

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

ANALYSIS:

This bill would allow the fingerprinting of juveniles age 14 or older who are arrested for criminal offenses. These fingerprints would be compared with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS). The DPS Records and Identification Section operates the Alaska Automated Fingerprint Identification System (AAFIS) and maintains criminal history record information used by police and other criminal justice agencies.

This bill would have a positive impact on the ability of police to solve cases involving juvenile offenders. Over 40% of all persons arrested for burglary and theft are juveniles. Many other crimes remain unsolved, however, as fingerprint evidence frequently found at the scene is not matched to any suspect because juveniles are not fingerprinted. AAFIS records indicate that 22% of the crime scene prints identified by the system since 1985 have been from first-time adult arrests which matched latent prints taken from crimes committed when the offender was a juvenile. Of these cases 86% were for burglary and theft offenses. Had these persons been fingerprinted as juvenile offenders they could have been identified, solving additional cases, and enabling the court to consider the offender's complete conduct when deciding the disposition of a case.

Existing AAFIS staff are not able to keep current with their present work load. Additional funding is required in Personal Services to increase the staff months of a part-time position approved for this unit for FY91 under a fiscal note for HB 52 (Chp 7 SLA 1990). The increased work load expected as a result of this bill is estimated as follows:

Estimated number of juvenile fingerprint cards	-	2700
Total time to complete 15 processing steps	-	504 hrs
CIK IV - Range 9A (4.0 months)		

Alaska State Legislature

Senator Paul Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269



While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

State Senate

MEMORANDUM

TO: Senator Rick Halford, Chairman
Senate Judiciary Committee

FROM: Senator Paul Fischer *PF*

SUBJECT: Senate Bill 17
(Fingerprinting of Minors)

DATE: January 28, 1991

Today, the above referenced bill passed out of the Senate State Affairs committee and will be referred to your committee as the next committee of referral.

I would appreciate your scheduling Senate Bill 17 for a hearing before the Senate Judiciary Committee at your earliest possible convenience.

As a member of the Senate Judiciary Committee last session, I know you are very familiar with this legislation and are very much aware of the fact that it has been a priority of the coalition of law enforcement groups for several years. Both the Departments of Law and Public Safety are in support of this legislation.

It would be my desire that the Senate take a lead on this legislation and pass it over to the other body, early in the Session.

For your information Senate Bill 17 is identical to the Judiciary Committee Substitute passed by the Senate last year.

Your consideration would be greatly appreciated.

PAF/sgn

Attachments

PROPOSED DRAFT

CS SENATE BILL NO. 17 ()

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

"An Act relating to fingerprinting of minors; and providing for an effective date."

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

*Section 1. AS 47.10.097 is repealed and reenacted to read:

Sec. AS 47.10.097 FINGERPRINTING OF MINORS. (a) A minor may be fingerprinted by a law enforcement agency under the same circumstances as an adult.

(b) The fingerprints of a minor who is 14 years of age or older may be referenced to or entered into the Alaska automated fingerprint system if the minor

(1) is arrested for a criminal offense;

(2) is in custody for a criminal offense; or

(3) if identification of the minor is necessary

for the safety of the minor or of another person.

(c) Notwithstanding (b) of this section the fingerprints of a minor may be referenced to or entered into the Alaska automated fingerprint system by court order upon good cause shown.

(d) Fingerprint records under this section are not subject to AS 47.10.090.

*Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

a) A law enforcement officer may fingerprint a minor under the same circumstances that an adult may be fingerprinted.

b) The fingerprints of a minor ^{who is 14 years of age or older} may be referenced to or entered into the Alaska automated fingerprint system upon the following conditions:

1. The minor has been arrested, or
2. The minor is in custody,
3. Identification of the minor is necessary for the safety of the minor or of another person.
4. In response to a court order.

c. The fingerprints of a minor under the age of 14 may be referenced to or entered into the Alaska automated fingerprint system only in response to a court order ~~upon good cause shown.~~

Ms4?

This act takes effect immediately under AS 01.10.070(c).

CS FOR SENATE BILL NO. 17 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS FISCHER, Pearce

*Called to Chenoweth
1040 AM Feb 11*

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fingerprinting of minors; and providing for an effective date."

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

3 *Domestic Violence*
* ~~Section 1. AS 18.65 is amended by adding a new section to read:~~

4 *47.10.097* ARTICLE 8. FINGERPRINTING
is repealed and re-enacted
5 Sec. ~~18.65.700~~. FINGERPRINTING OF MINORS. (a) A peace officer may fingerprint
6 a minor under the same circumstances as an adult.

7 (b) The fingerprints of a minor may be referenced to or entered into the Alaska
8 automated fingerprint system

9 (1) without a court order if the minor is 14 year of age or older and
10 (A) notwithstanding AS 47.10.095, the minor is arrested for a criminal
11 offense;

12 (B) the minor is in custody for a criminal offense; or

13 (C) identification of the minor is necessary for the safety of the minor or
14 of another person; or

Does not pick up under 14

1 (2) with a court order upon good cause shown.
2 (c) Fingerprint records under this section are not subject to AS 47.10.090.

3 * Sec. 2. AS 44.41.025(c) is amended to read:

4 (c) The department may reference to or enter into the Alaska automated fingerprint
5 identification system the fingerprints of a minor only *- don't need only.* when authorized by AS 18.65.700(b) or
6 (d) of this section [WHOSE FINGERPRINTS ARE TAKEN UNDER AS 47.10.097].

7 * Sec. 3. AS 47.10.097 is repealed.

8 * ~~Sec. 4. This Act takes effect immediately under AS 01.10.070(c).~~ *? May 6/2013*

47.10.097
a)
c)

7-LS0006D
Chenoweth
2/8/91

CS FOR SENATE BILL NO. 17 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS FISCHER, Pearce

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to fingerprinting of minors; and providing for an effective date."**

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

3 *** Section 1.** AS 18.65 is amended by adding a new section to read:

4 **ARTICLE 8. FINGERPRINTING.**

5 **Sec. 18.65.700. FINGERPRINTING OF MINORS.** (a) A peace officer may fingerprint
6 a minor under the same circumstances as an adult.

7 (b) The fingerprints of a minor may be referenced to or entered into the Alaska
8 automated fingerprint system

9 (1) without a court order if the minor is 14 year of age or older and

10 (A) notwithstanding AS 47.10.095, the minor is arrested for a criminal
11 offense;

12 (B) the minor is in custody for a criminal offense; or

13 (C) identification of the minor is necessary for the safety of the minor or
14 of another person; or

1 (2) with a court order upon good cause shown.

2 (c) Fingerprint records under this section are not subject to AS 47.10.090.

3 * Sec. 2. AS 44.41.025(c) is amended to read:

4 (c) The department may reference to or enter into the Alaska automated fingerprint
5 identification system the fingerprints of a minor only when authorized by AS 18.65.700(b) or

6 (d) of this section [WHOSE FINGERPRINTS ARE TAKEN UNDER AS 47.10.097].

7 * Sec. 3. AS 47.10.097 is repealed.

8 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

For readability

~~Good cause~~

This draft omits the good cause of court order for minor under 14 -

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

February 7, 1991

SUBJECT: Draft CSSB 17 (Judiciary), relating to the fingerprinting of minors

TO: Senator Rick Halford, Chair
Senate Judiciary Committee
ATTN: Doug Baily

FROM: Jack Chenoweth
Legislative Counsel

A word about the draft and its placement in the Alaska Statutes.

Current law (AS 47.10.097(a)) directs that "a minor in the custody of the department [of Health & Social Services] or a law enforcement agency . . ." may be fingerprinted. The explicit reference to departmental custody served as our justification for placing the current law in AS 47.10. Your redraft eliminates any reference to the department and addresses only what "law enforcement agencies" may do. Consequently, I've opted to move the material to a location that more directly addresses law enforcement. I opted for placement in AS 18.65 (rather than AS 44.41) because this provision seems to be directed at all law enforcement agencies--municipal police departments, village public safety officers, or whatever--rather than just to the Alaska State Troopers.

I opted to include a definition of "law enforcement agency" by cross-reference to an existing definition in AS 12.36. However, deletion of any reference to "the department" may raise the question whether the committee substitute authorizes the Department of Health & Social Services to fingerprint minors in the agency's custody, i.e. whether the department falls within the reach of the definition of "law enforcement agency" under AS 12.36.090(2). In other words, in its taking custody of delinquent minors, is the Department of Health & Social Services acting as "a public agency that performs as one of its principal functions an activity relating to crime prevention, control, or reduction or relating to the enforcement of the criminal law."? The committee may want to face that question squarely. I hope it will.

Senator Rick Halford

February 7, 1991

Page 2

To the extent this provision limits municipal police officers from acting in a different manner, the committee should consider a substantive cross-reference in the municipal code, AS 29, including, as applicable, a binder on home rule municipalities from acting other than in concert with this provision. While this addition may seem superfluous, it may put arguments over the reach of this provision at the local government level to rest.

What does the committee believe "upon good cause shown" means, given that we have moved well away from the suggested definition of that phrase as it had been proposed in the original measure?

JC:gc

91-064.glc

Enclosure

7450

7-LS0006ND
Chenoweth
2/1/91

CS FOR SENATE BILL NO. 17 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS FISCHER, Pearce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fingerprinting of minors; and providing for an effective date."

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

3 * Section 1. AS 18.65 is amended by adding a new section to read:

4 ARTICLE 8. FINGERPRINTING.

5 Sec. 18.65.700. FINGERPRINTING OF MINORS. (a) A law enforcement ^{officer}~~agency~~ may
6 fingerprint a minor under the same circumstances as an adult.

7 (b) The fingerprints of a minor may be referenced to or entered into the Alaska
8 automated fingerprint system

9 (1) without a court order if the minor is 14 year of age or older and

10 (A) the minor is arrested for or is in custody for a criminal offense; or

11 (B) identification of the minor is necessary for the safety of the minor or
12 of another person; or

13 (2) with a court order upon good cause shown.

14 (c) Fingerprint records under this section are not subject to AS 47.10.090.

- 1 (d) In this section, "law enforcement agency" has the meaning given in AS 12.36.090.
- 2 * Sec. 2. AS 44.41.025(c) is amended to read:
- 3 (c) The department may reference to or enter into the Alaska automated fingerprint
- 4 identification system the fingerprints of a minor only when authorized by AS 18.65.700(b) or
- 5 (d) of this section [WHOSE FINGERPRINTS ARE TAKEN UNDER AS 47.10.097].
- 6 * Sec. 3. AS 47.10.097 is repealed.
- 7 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

CS FOR SENATE BILL NO. 17 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS FISCHER, Pearce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fingerprinting of minors."

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

3 * Section 1. AS 47.10.097 is repealed and reenacted to read:

4 Sec. 47.10.097. FINGERPRINTING OF MINORS. (a) A peace officer may fingerprint
5 a minor under the same circumstances as an adult. *may be fingerprinted.*

6 (b) Fingerprint records taken under this section are not subject to AS 47.10.090.

CS FOR HOUSE BILL NO. 103 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/6/91

Referred: Today's Calendar

Sponsor(s): REPRESENTATIVES DONLEY, Ulmer, Larson, Parnell, Barnes, Sharp, Martin, Leman, Zawacki, B.Davis, R.Phillips, M.A.Miller, Hanley, Bruckman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fingerprinting of minors."

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

3 * Section 1. AS 44.41.025(c) is amended to read:

4 (c) The department may enter into the Alaska automated fingerprint identification system
 5 the fingerprints of a minor whose fingerprints are taken under AS 47.10.097. The commissioner
 6 of public safety shall assure that fingerprints entered into the Alaska automated fingerprint
 7 system under AS 47.10.097 are not cross-referenced with a record showing that the minor
 8 has been arrested or adjudicated a delinquent.

9 * Sec. 2. AS 47.10.097(a) is amended to read:

10 (a) Except as provided in (b) of this section, a minor in the custody of the department
 11 or of a law enforcement agency may not be fingerprinted for reference to or entry into the Alaska
 12 automated fingerprint system without a court order upon good cause shown. Good cause exists
 13 if the minor is in custody for a criminal offense or if identification of the minor is necessary
 14 for the safety of the minor or of another person.

1 * Sec. 3. AS 47.10.097(b) is amended to read:

2 (b) A ^{PEACE} [law enforcement] officer may fingerprint a minor [who is 14 [16] years of age or
3 older] for reference to or entry into the Alaska automated fingerprint system without a court order
4 when the minor is arrested [CONVICTED OF, OR ADJUDICATED A DELINQUENT] for a
5 criminal [, AN] offense [THAT IS A FELONY].

*Good cause for a court order shall include
in custody etc or other.*

SENATE BILL NO. 17

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS FISCHER, Pearce

*court order required unless there is
an arrest.*

Introduced: 1/21/91

Referred: State Affairs and Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fingerprinting of minors; and providing for an effective date."

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

3 * Section 1. AS 47.10.097(a) is amended to read:

4 (a) Except as provided in (b) of this section, a minor in the custody of the department
5 or of a law enforcement agency may not be fingerprinted for reference to or entry into the Alaska
6 automated fingerprint system without a court order upon good cause shown. Good cause exists
7 if the minor is in custody for a criminal offense or if identification of the minor is necessary
8 for the safety of the minor or of another person.

*we want to avoid court
order?
urgent delinquent*

9 * Sec. 2. AS 47.10.097(b) is amended to read:

10 (b) A law enforcement officer may fingerprint a minor who is 14 [16] years of age or
11 older for reference to or entry into the Alaska automated fingerprint system without a court order
12 when the minor is arrested [CONVICTED OF, OR ADJUDICATED A DELINQUENT] for a
13 criminal [, AN] offense [THAT IS A FELONY].

14 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

*was court order should exist only for a
search incident to an arrest.*

Paul Hamilton wants

- 1) Can judge print up court order if needed.
-) Can apply for court order in good cause - how if they have cause beyond amount.

Does defendant named good cause limit to the term for Future Those named?

See Court Rules - Is it still present.

Rodley would like to be able to print whenever in custody.

BILL NO: SB 17

DATE: January 28, 1991

TITLE: An Act Relating to the
Fingerprinting of Minors

CONTACT: Gayle A. Horetski
Deputy Commissioner

DEPARTMENT OF
PUBLIC SAFETY



This bill would allow the fingerprinting of juveniles age 14 and older who are arrested for criminal offenses. The fingerprints would be taken for comparison with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS).

This bill should have a positive impact on the ability of police to solve cases involving juvenile offenders. Over 40% of all persons arrested for theft and burglary offenses are juveniles (see attached chart). Fingerprint evidence is frequently found at crime scenes, but is not matched to any suspect because juveniles are not fingerprinted. A large number of theft and burglary offenses are "cleared" when adults are arrested and their fingerprints matched to latents from crimes committed when the offender was a juvenile. AAFIS records indicate that 22% of the crime scene prints identified by the system since 1985 have been from first-time adult arrests which matched latent prints taken from the scenes of crimes committed when the offender was a juvenile. See attached graph. Had these persons been fingerprinted as juvenile offenders they could have been identified, solving additional cases, and enabling the court to consider the offender's complete conduct when deciding the disposition of a case.

The Department of Public Safety supports SB 17.

Richard L. Burton
Commissioner

JUVENILE ARRESTS*

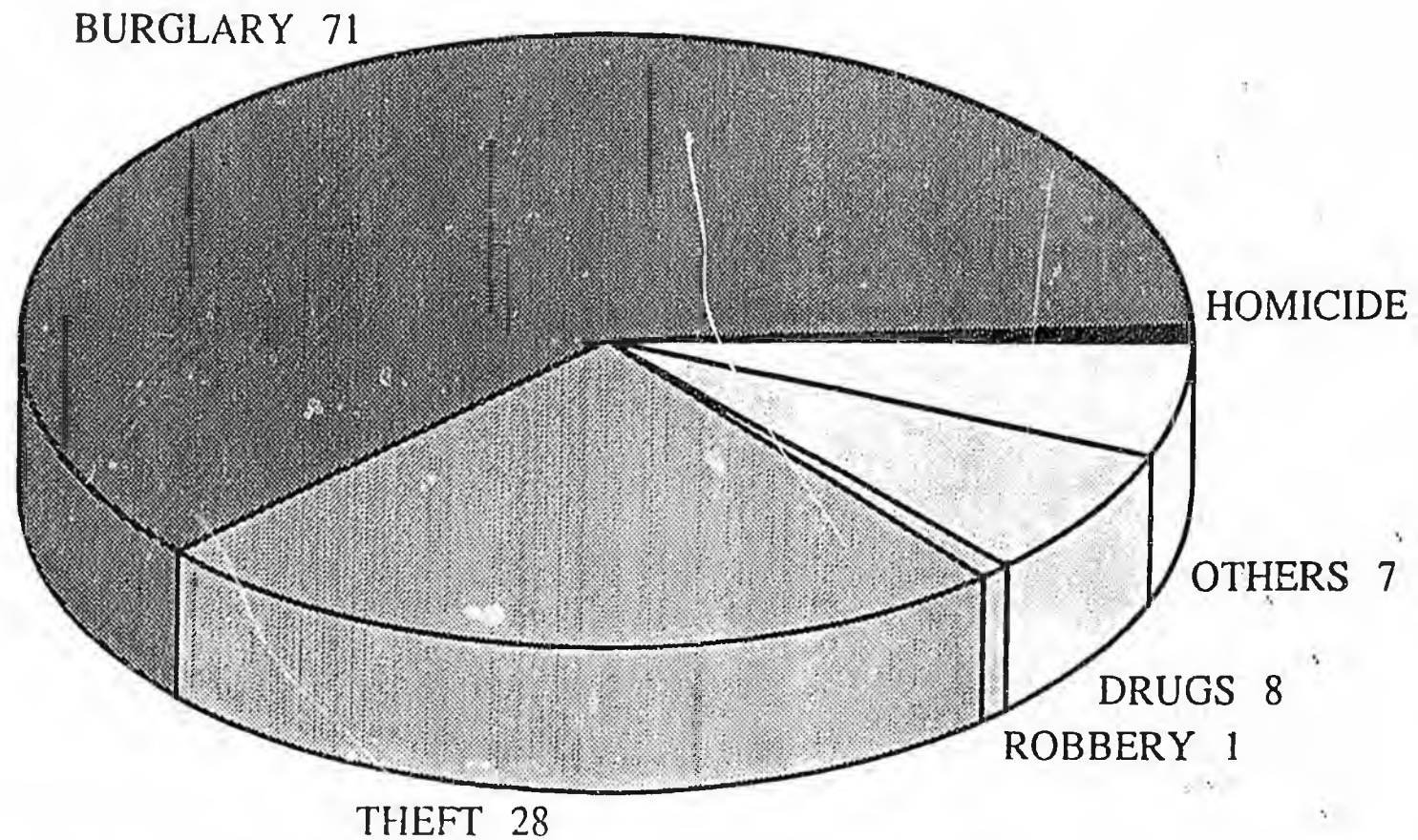
	1987	%	1988	%	1989	%
MAJOR FELONIES**						
Total Arrests	990		1100		2090	
Juveniles	96	9.7%	97	9%		
BURGLARY						
Total Arrests	1041		960		1004	
Juveniles	475	46.0%	509	49%	527	52.5%
LARCENY						
Total Arrests	4934		4398		4487	
Juveniles	1754	36.0%	1624	37%	1761	39.2%
MOTOR VEHICLE THEFT						
Total Arrests	331		481		512	
Juveniles	166	50.0%	214	44%	272	53.0%

*Data obtained from the 24 agencies submitting UCR figures to DPS.

**Major Felonies = Combined figures for Murder, Manslaughter, Rape, Robbery and Aggravated Assault.

ALASKA AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM
(AAFIS)

JUVENILE LATENT IDENTIFICATIONS 1985 - 1990



LATENT IDENTIFIED BY SEARCHING A FIRST TIME ARREST CARD AGAINST THE UNSOLVED
LATENT DATA BASE. (CRIME WAS COMMITTED WHEN THE PERPETRATOR WAS A JUVENILE.)

Alaska Association Chiefs of Police



January 28, 1991

Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, AK 99811

Dear Senator Fisher,

On behalf of the Alaska Association of Chiefs of Police I want to express our whole hearted support for Senate Bill 17. The ability to Fingerprint juveniles would be an important law enforcement tool.

We know that the majority of property offenses are committed by juveniles. Senate Bill 17 would help apprehend juveniles while still young in an effort to correct their behavior before they become adult career criminals.

If we can do anything to assist you in the passage of this bill, please contact me.

Sincerely,

A handwritten signature in cursive script, which appears to read "Duane S. Udland".

Duane S. Udland
President

... policy, a firm need not meet the customer's demand to resolve a complaint.

□ Company won't budge? Haunted by a question or complaint? Write the Troubleshooter, P.O. Box 149001, Anchorage, 99514-9001, or call 257-4343. Please include work and home phone numbers and photocopies of correspondence. Individual answers are not possible due to volume. Published letters will be edited.

Anchorage Daily News 2/23/90 E3

Police arrest suspect in Safeway stabbing

By MARILEE ENGE
Daily News reporter

Anchorage police on Thursday arrested a man suspected of stabbing two Safeway employees earlier this week after identifying him through the state's fingerprint computer.

Mike Troy White, 27, was charged with attempted murder and two counts of first-degree assault for the Monday morning stabbings. He was booked into Cook Inlet Pre-Trial Facility on \$100,000 bail.

Employees of the University Center Safeway store saw a man shoplift some cigarettes about 6 a.m. Monday, police said. When Donald Tomlinson and Dustin Prince tried to stop the man at the door, he pulled

a hunting knife and stabbed them.

Tomlinson was knifed in the back and underwent surgery at Providence Hospital. He was in stable condition there on Thursday. Price was treated for a leg wound and released.

Investigators took a fingerprint from the scene, ran it through the computer and came up with White's name. Then they pulled a photograph of him from state records and showed a photo line-up to witnesses, who identified him, said police spokesman Sgt. Walt Monegan.

Thursday, police found White at the Eagle Crest, a men's half-way house and residence hotel on Ninth Avenue. They surrounded the building and arrested him inside about 6 p.m.

Senate committee delays

The Associated Press

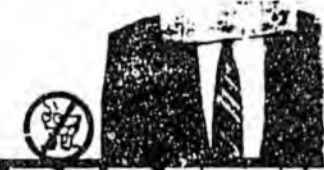
JUNEAU — A Senate committee vote on legislation that would ban flag desecration in Alaska was postponed Thursday because of a judge's ruling that the new federal flag-desecration law was unconstitutional.

The Senate Judiciary Committee had planned to approve the flag bill and

send it on its way. But the committee's vote was delayed by Sen. Jan Fairs, said a source. "I don't think it's just for political reasons," Fairs, R-Anchorage, said. District Judge

DON'T BE EMBARRASSED
ABOUT
PESTS

CONTROL
THEM!



PARATEX

PIED PIPE

CALL US — 344-2538

S B

1 8

SEVENTEENTH LEGISLATURE
SENATE JUDICIARY COMMITTEE BILL FILE

BILL NUMBER: SB 18
ABBREVIATED TITLE: AK PENSTON CORP
SPONSER: Pennington, Starn, Dunne ORIGINAL RECEIVED: 2-1 for state affairs
WRITTEN REQUEST TO SCHEDULE REC'D: 1-29-92 FROM: Pennington
SPONSER'S STATEMENT REC'D: 1-29 FROM: Pennington
SECTIONAL ANALYSIS RQST'D: _____ FROM: _____
SECTIONAL ANALYSIS RECEIVED: _____
FISCAL NOTE (ORIGINAL)
RQST'D OF: _____ REC'D FROM: Revenue DATE: With Bill
RQST'D OF: _____ REC'D FROM: Revenue DATE: With Bill
RQST'D OF: _____ REC'D FROM: Revenue DATE: With Bill
FISCAL NOTE (C.S.)
RQST'D OF: _____ REC'D FROM: _____ DATE: _____
RQST'D OF: _____ REC'D FROM: _____ DATE: _____
RQST'D OF: _____ REC'D FROM: _____ DATE: _____
FIVE DAY NOTICE GIVEN: _____ NOTICE OF HEARINGS GIVEN: _____
COMMITTEES OF REFERRAL: FIRST: SA SECOND: Legal THIRD: Finance

COMMITTEE ACTION

DATE: _____

PERSONS TO BE NOTIFIED OF HEARING

1. SPONSOR Pennington
2. AGENCY Rev
3. Finance
4. Legal
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____



Alaska State Legislature

Senate

Office of the Secretary

OFFICIAL BUSINESS

PO. BOX V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

FOR YOUR IMMEDIATE ATTENTION

DATE: February 4, 1991

TO SENATE COMMITTEE: Judiciary (Sen. Halford)

FROM: Office of the Senate Secretary

The Chairman of the above-referenced Committee has waived the Committee referral on the following bill(s):

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 18

Alaska State Pension Corporation

*2-5-91
File delivered to Messenger
Rachel copied books
WB*

→ Please give the bill file(s) to the person delivering this message for forwarding to the next Committee of referral.

Thank you for your prompt attention to this request.

JR/s

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 18

Revision Date: _____
 Title: An Act Establishing the Alaska State Pension Corporation.
 Sponsor: Pourchot
 Requestor: _____

Department Affected: Administration
 BRU: Retirement & Benefits
 Components: Retirement & Benefits
 COMPONENT SERIAL NO. 64

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

Full-Time	0.0	0.0	0.0	0.0	0.0	0.0
Part-Time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year impact: _____

ANALYSIS: (attach a separate page if necessary)
 There is no measurable fiscal impact to the Division from this bill.

Prepared By: Gary M. Bader, Director *Gary M. Bader* Phone: 465-4470
 Division: Retirement and Benefits Date: 1/25/91
 Approved By Commissioner: *William Kelly* Date: 1/28/91
 Agency: Administration

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 18

Revision Date: _____ Department Affected: Revenue
 Title: Alaska State Pension Corporation BRU: Treasury
 Component: _____

Sponsor: Pourchot
 Requestor: Senate State Affairs COMPONENT SERIAL NO.

	1	2	1
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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	(9,846.2)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)
TOTAL OPERATING	(9,846.2)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	(9,846.2)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)
TOTAL	(9,846.2)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) Alaska State Pension Corporation is assumed to take over retirement fund investments January 1, 1992. FY 92 figures are half the amounts requested in Treasury's FY 92 budget for retirement funds. FY 93 - 97 are the full amount of FY 92 budget for retirement funds.

Prepared By: Milton B. Barker ^{MB} Phone: 465-2350
 Division: Treasury Date: 1-25-91
 Approved by Commissioner: Milton B. Barker for
 Agency: Revenue Date: 1-25-91

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 18

Revision Date: _____ Department Affected: Alaska State Pension Corporation
 Title: Alaska State Pension Corporation BRU: _____
 Component: _____
 Sponsor: Pourchot
 Requestor: Senate State Affairs 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	9,846.2	19,692.4	19,692.4	19,692.4	19,692.4	19,692.4
TOTAL OPERATING	9,846.2	19,692.4	19,692.4	19,692.4	19,692.4	19,692.4

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	9,846.2	19,692.4	19,692.4	19,692.4	19,692.4	19,692.4
TOTAL	9,846.2	19,692.4	19,692.4	19,692.4	19,692.4	19,692.4

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) FY 92 - 97 are the amounts deleted from the Treasury budget on the attached fiscal note. Net incremental cost is zero.

Prepared By: Milton B. Barker ^{MB} Phone: 465-2350
 Division: Treasury Date: 1-25-91
 Approved by Commissioner: Milton B. Barker for
 Agency: Revenue Date: 1-25-91

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

ALASKA STATE LEGISLATURE

SENATE FINANCE COMMITTEE,
CO-CHAIR



Senator Pat Pourchot

ANCHORAGE
P.O. BOX 104836
ANCHORAGE, AK 99510
(W) (907) 561-7623
(H) (907) 338-2425

JUNEAU
P.O. BOX V
STATE CAPITOL
JUNEAU, AK 99811
(907) 465-3712

MEMORANDUM

TO: Senator Halford
Chair, Senate Judiciary Committee

FROM: Senator Pat Pourchot *Pat*

RE: Request for hearing SSSB 18

DATE: January 30, 1991

SSSB 18, An Act establishing the Alaska State Pension Corporation; relating to management and investment of state pension funds; and providing for an effective date, has been referred to your committee.

SSSB 18 establishes a public corporation to manage the Public Employees Retirement System (PERS), the Teachers Retirement System (TRS), the Judicial Retirement System, the Military Retirement System funds, Supplemental Benefits System (SBS) funds and other state funds upon mutual agreement. The corporation allows for beneficiary and employer representation and provides for an Investment Advisory Council to assist the board in investment decisions.

I would greatly appreciate your scheduling this bill for a hearing as early as possible.

Susie Barnett

ALASKA STATE LEGISLATURE

SENATE FINANCE COMMITTEE,
CO-CHAIR



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STATE CAPITOL
JUNEAU, AK 99811
(907) 465-3712

Senator Pat Pourchot

TO: Senator Rick Halford
Senate Judiciary Committee Chair

FROM: Senator Pat Pourchot

RE: SSSB 18, An Act establishing the Alaska State Pension Corporation; relating to management and investment of state pension funds and other state funds; and providing for an effective date.

DATE: January 30, 1991

Background Information: The state is responsible for \$4+ billion in retirement funds. Currently this money is being managed by one person, the Commissioner of Revenue. The issue of the Commissioner being the sole fiduciary was considered last legislative session and several bills were introduced that dealt with the management of state funds. In the final days of the session, the choices narrowed to two options: the "Permanent Fund Management" concept which was a corporation closely tied to the Permanent Fund and the "Corporation" concept, which set up a public corporation to manage the majority of state funds. After considerable debate, neither passed the legislature.

During the interim, I met with the Permanent Fund Board of Trustees, they have since passed a resolution stating "that they have no interest in assuming responsibility for the Public Employees Retirement System (PERS) or Teachers Retirement System (TRS) funds". The Senate State Affairs Committee held a public hearing on the issue of investment of state funds in October, 1990. Additionally, I have researched many other states' systems. As a result of this work, I have developed legislation that will resolve current weaknesses in the management of retirement funds and would allow for the potential integration of retirement benefit administration responsibilities with investment responsibilities.

Senator Pourchot, 1991

The Alaska State Pension Corporation:

- 1) is a public corporation established to manage the PERS, TRS, Judicial, Military retirement system and Supplemental Benefit System (SBS) funds and other state funds, upon agreement.
- 2) allows for beneficiary and employer representation through an 8 member board of trustees, composed of: 4 elected member seats, 2 appointed employer seats, Commissioner of Revenue and 1 appointed member nominated by the other seven trustees.
- 3) provides for an Investment Advisory Council, composed of 3-5 professionals, that would recommend to the board investment policies, assist in selection of performance consultants and advise on the overall financial well-being of the corporation.
- 4) requires that all named fiduciaries adhere to the Prudent Investor rule and that all applicable transactions follow the Generally Accepted Accounting Principles.
- 5) requires the board to employ and fix compensation for an executive director. The executive director may appoint employees, all are exempt from the personnel code.
- 6) provides for legislative, executive, member and employer oversight through reporting and through use of outside performance evaluators and auditors.

Please contact my office if you would like additional information. Thank you for your interest in this important issue.

ALASKA STATE LEGISLATURE

SENATE FINANCE COMMITTEE,
CO-CHAIR



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Senator Pat Pourchet

TO: Senator Halford
Chair, Senate Judiciary Committee

FROM: Senator Pat Pourchet *Pat*

RE: SSSB 18, establishing the Alaska State Pension Corporation

DATE: January 30, 1991

The following is a summary of the changes made to SB 18 that are now in the Sponsor Substitute for Senate Bill 18.

Section 2. AS 37.10 Article 5

Sec. 37.10.210 (b)

(Page 2 Lines 5-12) Changes the board from seven to eight trustees, four of the trustees to be elected by the members in the retirement systems. Elected seats are identified as:

- 1 Active PERS/Active SBS
- 1 Retired PERS
- 1 Active TRS
- 1 Retired from system other than PERS.

Sec. 37.10.210 (g) (Page 2, Line 28) Changes quorum from four to five.

Sec. 37.10.220 (a) (7) (Page 3, Lines 20,21) Under powers and duties of the board, adds a requirement that the board advise the commissioner of administration concerning the investment of funds held under the state DEFERRED COMPENSATION PROGRAM.

Section 9. AS 36.30.990 (1)

(Page 8, Line 24) Previous drafting error corrected. Updated statute now in bill, which includes AHFC.

Section 12. AS 39.30

Sec. 39.30.175 (Page 12, Lines 2-6) establishes the corporation as the fiduciary for the SUPPLEMENTAL BENEFITS SYSTEM (SBS).

Section 15. AS 39.45.030 (Page 13, lines 9-12) requires the commissioner of administration to consult with the corporation prior to investing DEFERRED COMPENSATION PROGRAM funds and to reimburse corporation for cost of advise.

Section 19. (Page 14, Line 10) under Organization of Trustees, sets out a 3 year term for the additional elected member.

M E M O R A N D U M

January 29, 1991

SUBJECT; ALASKA STATE PENSION CORPORATION (ASPC): Summary of Sponsor Substitute for SB 18 by Section

TO; Senator Pat Pourchot

FROM; Susan Barnett, Staff

I have prepared this sectional analysis of the SSSB 18, An Act establishing the Alaska State Pension Corporation; relating to management and investment of state pension funds and other state funds; and providing for an effective date.

TITLE; Identifies that the retirement system funds, and other state funds upon agreement are to be managed and invested by the corporation.

SECTION 1/FINDINGS; recommendation that the ASPC should integrate the investment of pension funds with retirement benefit administration responsibilities for all state related pension funds, including EPORS, within two years of enactment of this legislation.

SECTION 2: creates the Alaska State Pension Corporation.

Sec. 37.10.210 establishes the corporation as a public corporation. Subsection (b) sets out the eight voting trustees, four of which are elected by members of the retirement systems, two of which are appointed by the governor from a list submitted by employers, one additional is appointed by the governor from a list of nominees submitted by the other seven trustees, and the commissioner of revenue serves as a trustee. Subsection (c) sets out staggered four year terms for trustees. Subsections (d) and (e) set out removal of trustees and filling of vacancy. Subsections (f)(g)(h) set out board organization: board elects chair annually, five trustees constitute a quorum and designees are not allowed. Subsection (i) requires trustees to participate in financial education training.

Sec. 37.10.220 sets out the powers and duties of the board, including establishing investment policies for the funds for which it is responsible, submitting investment reports to the legislature, employers, appropriate boards, contracting for external performance reviews, employing outside investment advisors, employing legal counsel, permitting trustees to enter agreement to assume responsibility for other state funds upon agreement with the managers of those funds. SSSB 18 requires the board advise the commissioner of administration concerning the investment of funds held under the state deferred compensation program.

Sec. 37.10.230 sets out conflict of interest provisions for the fiduciaries and allows the board to designate other staff who must comply with these provisions. Under this section, the board shall

adopt regulations to restrict fiduciaries and any designated staff, from having a substantial interest in corporate assets. Subsection (c) identifies that failure to disclose conflicts is grounds for termination of employment.

Sec. 37.10.240 exempts the board from the Administrative Procedures Act but requires the board to comply with the open meetings law.

Sec. 37.10.250 sets the honorarium for trustees at \$150 per meeting day and states that those who are public employees shall serve without compensation but shall be granted administrative leave.

Sec. 37.10.260 requires the board to employ and fix the compensation for an executive director who must meet qualifications as set in statute. The executive director may appoint employees with approval of the board. Subsection (b) requires the board to adopt regulations restricting staff from financial interest in those companies which provide service to the corporation. All employees are exempt from the personnel act but are subject to the ethics act.

Sec. 37.10.270 requires the board to appoint an investment advisory council composed of at least three and not more than five members who must meet qualifications. Subsection (b) sets out staggered three year terms. Subsection (c) allows board to establish compensation for advisory members. Subsection (d) sets out duties of the council to include reviewing investments, recommending investment policy, advising on selection of consultants and auditors. Subsection (e) allows the council to contract with other state agencies to provide advice.

Sec. 37.10.280 requires the board to protect assets held in trust and its own assets, services and employees by purchasing insurance or arranging for self-insurance.

Sec. 37.10.290 exempts the corporation and property it owns, manages or holds in trust from all taxes and assessments in the state.

Sec. 37.10.300 permits banks to give sureties to the corporation or to enter collateral agreements on approved securities.

Sec. 37.10.310 prohibits the corporation from engaging in commercial banking activity, from acting as a depository or trustee for a private person and from acting as a lender to a private person of money from any source other than the money from the state funds under its own management.

Sec. 37.10.320 limits the states responsibility for liabilities of the corporation.

Sec. 37.10.390 defines board, corporation and retirement systems.

Section 3 AS 06.05.025 amends the banking code to allow the board of trustees or the legislative auditor to request an examination of the corporation by the Division of Banking, Securities and Corporations

SECTION 4: substitutes the corporation for the Commissioner of Revenue in reporting about the condition of the teachers retirement system (TRS) and requires the corporation provide the TRS board with an annual external performance review of the trust fund.

SECTION 5: makes the corporation fiduciary of the TRS fund in place of the Commissioner of Revenue.

SECTION 6: substitutes the corporation for the commissioner of revenue in management of the Judicial Retirement Trust.

SECTION 7: substitutes the corporation for the commissioner of revenue in management and investment of the Alaska National Guard and Alaska Naval Militia retirement fund, referred to as the Military fund or system.

SECTIONS 8 and 9 exempt the corporation from the procurement code but require the board of trustees to adopt comparable procedures.

SECTION 10 substitutes the corporation for the Commissioner of Revenue in the section that sets out the powers and duties of the fiduciary that invests and manages state funds. In paragraph (a)(8) the bill requires accounting records to be kept in accordance with generally accepted accounting principles. Subsection (c) requires the fiduciary to exercise the Prudent Investor Rule in exercising powers and duties. Subsection (e) requires the state to defend and indemnify the fiduciary if fiduciary performed in good faith and was prudent. Subsection (f) defines fiduciary to include trustee, officer of the corporation and any other person who exercises control over corporation assets.

SECTION 11: places employees of the corporation in the exempt service.

SECTION 12: identifies the corporation as the fiduciary of the receipts of the employee benefits program.

SECTIONS 13 and 14: substitute the corporation for the Commissioner of Revenue in the management and investment of the public employees retirement (PERS) fund.

SECTION 15: requires the commissioner of administration to consult with the corporation before investing deferred compensation funds.

SECTION 16: adds the members of the Alaska State Pension

Corporation to coverage of the conflict of interest statutes.

SECTION 17; amends the duties of the Department of Revenue to reflect the changes made by the bill.

SECTION 18; is a transition section.

SECTION 19; sets out the initial terms of the board and permits the board to hold organizational meetings as soon as a quorum has been appointed/elected.

SECTION 20; sets July 1, 1991 as the effective date for board organization.

SECTION 21; sets the earlier of July 1, 1992 or the date established by resolution of the trustees as the effective date for the corporation to begin managing and investing assets as well as other duties as defined in the bill.

Alaska State Pension Corporation (ASPC) Sponsor Substitute SB 18

A public corporation located in the
Department of Revenue to manage the following funds:
Public Employees Retirement System Fund \$2.74 billion
Teachers Retirement System Fund \$1.70 billion
Judicial Retirement System Fund \$28.67 million
Military Retirement Fund \$3.9 million
Supplemental Benefits System \$600 million
Elected Public Officers Retirement System*
(subject to annual appropriation)

ASPC Board of Trustees

4 Member Seats (Elected)
2 Employer Seats (Appointed)
1 Department Commissioner
1 Appointed Seat (Nominated by the Seven Trustees)

Executive Director

Investment
Advisory Council
3 - 5 Professionals

Chief Investment Officer

Chief Operations Officer*

Investment Staff

Operations Staff*

* Once System is integrated to include retirement related operations. Active employee services would remain in Department of Administration

Plans would re-direct management of pension funds

By RALPH THOMAS

THE JUNEAU EMPIRE

State officials would turn over management of more than \$5 billion in public employee retirement funds to a state-controlled board of directors under a legislative proposal to improve the funds' investments.

Senate bills aimed at changing management of the retirement funds received their first committee hearings this week, and a companion measure will get its first committee review Friday in the House.

Supporters of the bills say the retirement funds need closer attention from professional investors rather than state employees — for more security and better returns on investments.

The state Revenue commissioner is responsible for investing more than \$4.4 billion in state and municipal employee and teacher retirement funds, while the Department of Administration oversees almost \$1 billion in another benefit account.

Sen. Pat Pourchot, D-Anchorage, who introduced one of the two Senate bills, said, "Without strong, independent, full-time management of these funds ... we could at least be missing investment opportunities." He said the current system leaves too great a chance for mismanagement.

The measures are spin-offs of a bill that died last year in the Senate. And, as was the case last year, the bulk of debate on the issue is likely to

occur in the Senate.

Though Pourchot's measure — Senate Bill 18 — and a bill sponsored by Sen. Jay Kerttula, D-Palmer — Senate Bill 10 — have similar intents, there are significant differences.

A companion to Pourchot's bill — House Bill 37 — has been introduced by Rep. Frael Ulmer, D-Juneau.

Ulmer said she knows of no opposition to her bill in the House.

Officials in the Hickel administration said this week they want management of the retirement funds moved off the job duties of the Revenue commissioner, but it is unclear which approach they favor.

Key differences between the Pourchot and Kerttula bills include: what funds would be included in the plan, the makeup of the board that would oversee investments, and whether a separate corporation should be formed to do the job.

Pourchot's bill would establish the Alaska State Pension Corp. to invest money for the Public Employees Retirement System, Teachers Retirement System and the state's Supplemental Benefit System — established in 1980 when state employees dropped out of the federal Social Security program.

The Supplemental Benefits System is administered by the Department of Administration.

The corporation would have an eight-member board of trustees, an executive director and an advisory



SEN. PAT POURCHOT



SEN. JALMAR KERTTULA

panel of investment professionals. The board would include the Revenue commissioner, three other members appointed by the governor, and four seats elected by members of the retirement systems.

Kerttula's bill would not set up a separate corporation. Under his plan, the funds would continue to be managed by state employees, but under the direction of a nine-member board of trustees. The advisory board would have five governor-appointed members, including the commissioners of Revenue and Administration. The other four members

\$121 million held by California-based Executive Life was not lost, but the scare might have been avoided if a professional board had been guiding the investments, the senator said.

Changing the system might also boost returns, Pourchot said. "Our returns haven't been bad. They haven't been good, they've been average."

A 1989 state audit of the public employees and teachers retirement funds concluded that the "investment management oversight is severely lacking when compared to other larger, older, more experienced funds."

At a Senate State Affairs Committee hearing Monday, Gary Bader, director of the Administration department's Division of Retirement and Benefits, said the Hickel administration supports the legislation's intent. But it was not clear which, if either, bill the administration favors.

In an interview later, Bader said the composition of the board under either plan "should be such that the governor can be held accountable for the actions of the board." He said that meant the governor should appoint at least a majority of the board members.

He also said forming a separate corporation — as proposed in Pourchot's bill — would conflict with Gov. Walter J. Hickel's goal to reduce the number of state employees.

Revenue Commissioner Lee Fish-

er, however, said he favors forming a separate corporation. He said investing the retirement funds is an "onerous responsibility" that he would gladly relinquish.

Pourchot said he couldn't predict how the issue might fare in the Senate, and that he planned to meet with Kerttula to discuss possible compromises between the two proposals.

Both bills moved out of State Affairs on Wednesday. Pourchot's bill was sent to the Judiciary Committee, while Kerttula's measure went to Senate Finance.

A similar measure died last year in the Senate after passing the House 37-2. That bill would have set up a corporation similar to Pourchot's, but was killed because some senators believed the funds should be managed by the Alaska Permanent Fund Corp.

During the interim, however, the Permanent Fund board passed a resolution against such a move, and Pourchot said the Permanent Fund question is a dead issue this session.

Sen. Jim Duncan, D-Juneau, last year favored moving the funds to the Permanent Fund board, but agreed that is not an option this year. Duncan, a member of State Affairs panel, said a lot of work remains on the issue.

"I think we need to evaluate very carefully the formation of a separate corporation," Duncan said.

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FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 35

Revision Date: _____
Title: Use of Rented Property/Drug
Violations _____
Sponsor: Rep. Pourchot
Requestor: Senate Judiciary

Department Affected: Public Safety
BRU: Alaska State Troopers
Component: Criminal Investigation
Bureau _____

COMPONENT SERIAL NO.

	8	3	0
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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 _____

ANALYSIS: (Attach a separate page if necessary)

(See attached).

Prepared by: Lt. John Myers
Division: Alaska State Troopers

Phone: 269-5976
Date: 2/11/91

Approved by Commissioner: Richard L. Burton
Agency: Department of Public Safety

Richard L. Burton
Date: 2/26/91

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

SB 35 amends existing landlord-tenant laws to allow property owners to terminate rental agreements for residential property with renters engaged in certain alcohol and drug violations. The bill created duty on the part of police officers who arrest persons for certain alcohol, drug, and imitation drug offenses committed in residential rental property to make a reasonable effort to discover the identity of the property owner and to notify the owner in writing at the last address listed on tax records and at any other address known to police. The notice requirement applies to alcohol violation arrests for sales from unlicensed premises and for possession or sale of alcohol where prohibited by local option; to drug violations involving the manufacture or distribution of all drugs except small amounts of marijuana; and to imitation drug violations involving the manufacture or distribution of imitation drugs, or possession of certain precursor chemicals used in the manufacture of imitation drugs. Based upon past arrests for these offenses it is estimated that the Department of Public Safety will have to notify approximately three hundred property owners per year. We estimate that research required to identify the property owner, determine the last address listed on tax roles and any other addresses known to police, and to prepare the written notice, will take approximately one hour per occurrence.

The Alaska State Troopers estimates approximately 100 arrests for violation of the "local option" laws, and approximately 200 arrests for applicable drug offenses. It is expected that approximately 80% of the alcohol offenders and 60% of the drug offenders reside in rented property.

There will be fiscal impact upon the Alaska State Troopers. For each of these arrests a clerk would have to research the identity of the owner and prepare notices as required. There will be costs for materials, preparation time, and postage. Since these offenses will be spread throughout the state, no one person would handle them all; the impact would be felt by detachment personnel handling the cases. There is no way to quantify this impact, however. It will be absorbed, as best as can be, within the existing workload. Notices will be mailed out in the normal course of business, as clerical staff can find time to process them. They would not be handled on any sort of emergency or expedited basis.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSSB 35 (JUD)

Revision Date: _____
Title: Termination of Tenancies

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

Sponsor: Rep. Pourchot
Requestor: Senate Judiciary

Bureau

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-
----------------	-----	-----	-----	-----	-----	-----

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 _____

ANALYSIS: (Attach a separate page if necessary)

(See attached).

Prepared by: Lt. John Myers

Phone: 269-5976

Division: Alaska State Troopers

Date: 2/11/91

Approved by Commissioner: *Richard L. Burton*

Richard L. Burton

Agency: Department of Public Safety

Date: 3/08/91

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

CSSB 35(JUD) amends existing landlord-tenant laws to allow property owners to terminate rental agreements for residential property with renters engaged in certain alcohol and drug violations. The bill creates a duty on the part of police officers who arrest persons for certain alcohol, drug, and imitation drug offenses committed in residential rental property to make a reasonable effort to discover the identity of the property owner and to notify the owner of the arrest either in person or at the last address listed on tax records and at any other address known to police. The notice requirement applies to alcohol violation arrests for sales from unlicensed premises and for possession or sale of alcohol where prohibited by local option; to drug violations involving the manufacture or distribution of all drugs except small amounts of marijuana; and to imitation drug violations involving the manufacture or distribution of imitation drugs, or possession of certain precursor chemicals used in the manufacture of imitation drugs. Based upon past arrests for these offenses, it is estimated that the Department of Public Safety will have to notify approximately three hundred property owners per year. We anticipate that in-person notice would be given in many (perhaps most) cases. If a written notice is necessary, we estimate that research required to identify the property owner, determine the last address listed on tax roles and any other addresses known to police, and to prepare the written notice, will take approximately one hour per occurrence.

The Alaska State Troopers estimates approximately 100 arrests for violation of the "local option" laws, and approximately 200 arrests for applicable drug offenses. It is expected that approximately 80% of the alcohol offenders and 60% of the drug offenders reside in rented property.

There will be fiscal impact upon the Alaska State Troopers. For arrests requiring a written notice, a clerk would have to research the identity of the owner and prepare notices as required. There will be costs for materials, preparation time, and postage. Since these offenses will be spread throughout the state, no one person would handle them all; the impact would be felt by detachment personnel handling the cases. There is no way to quantify this impact, however. It will be absorbed, as best as can be, within the existing workload. Notices will be mailed out in the normal course of business, as clerical staff can find time to process them. They would not be handled on any sort of emergency or expedited basis.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CS SB 35

Revision Date: _____ Department Affected: Community & Regional Affairs
Title: "An Act..termination of tenancies.. BRU: _____
illegal activities.." Component: _____

Sponsor: Senators Pourchot & Halford

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						
---------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
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.)

Prepared By: Remond Henderson, Director Phone: 465-4708
Division: Administrative Services Date: 3/11/91

Approved by Commissioner: Ed. Bethel
Agency: Community & Regional Affairs Date: 3/11/91

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 35

Revision Date: _____ Department Affected: Community & Regional Affairs
 Title: "An Act..amending the Uniform BRU: _____
 Residential Landlord & Tenant Act.." Component: _____

Sponsor: Senator Pourchot
 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						
---------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
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.)

Prepared By: Remond Henderson Phone: 465-4750
 Division: Administrative Services Date: 1/31/91

Approved by Commissioner: Ed. Ruth
 Agency: Community & Regional Affairs Date: _____

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

FISCAL NOTE

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

Bill No. 80 35

Revision Date: _____
 Title: An Act amending ... civil remedy ...
Uniform Residential Landlord & Tenant Act
 Sponsor: Pourchot
 Requestor: Pourchot

Department Affected: Alaska Court System
 BRU: Trial Courts
 Components: _____
 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
 Division: Alaska Court System

Phone: 264-8228
 Date: 02/04/91

Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System

Date: 02/04/91

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

No. 2

FISCAL NOTE

Bill Version: SB.35

(S) Publish Date: 2/6/91

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act amending ... civil remedy ... BRU: Trial Courts
Uniform Residential Landlord & Tenant Act Components: _____
 Sponsor: Pourchot
 Requestor: Pourchot 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 *[Signature]* Phone: 264-8228
 Division: Alaska Court System Date: 02/04/91

Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]*
 Agency: Alaska Court System Date: 02/04/91

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

ALASKA STATE LEGISLATURE

SENATE FINANCE COMMITTEE,
CO-CHAIR



Senator Pat Pourchot

ANCHORAGE
P.O. BOX 104836
ANCHORAGE, AK 99510
(W) (907) 561-7623
(H) (907) 338-2425

JUNEAU
P.O. BOX V
STATE CAPITOL
JUNEAU, AK 99811
(907) 465-3712

MEMORANDUM

TO: Senator Rick Halford, Chair
Senate Judiciary Committee

DATE: February 6, 1991

FR: Senator Pat Pourchot

RE: Request for Judiciary hearing on SB 35, relating to use of rented property and drug violations

SB 35 has two main purposes: 1) to expedite the eviction of tenants who fail to pay their rent when due by shortening the notification period from 10 to 5 days prior to commencing forcible entry and detainer (FED) proceedings; and 2) to allow a landlord to terminate the tenancy of a renter who is arrested for conducting certain illegal activities on the rental property - mainly relating to bootlegging or the manufacture or sale of controlled or imitation controlled substances. Neither provision interferes with a tenant's rights in the FED process.

The bill passed the Senate Community and Regional Affairs with a vote of 3 "do pass". I would very much appreciate your scheduling SB 35 for a hearing before the Senate Judiciary Committee at your earliest convenience.

Senator Pat Pourchot
March 7, 1991

PROPOSED CS FOR SB 35

Note: New provisions in CS are in bold type.

Title has been shortened.

Sections 1 and 12. Adds new provisions to the statutes under which peace officers who arrest persons for specified illegal activities involving alcoholic beverages, controlled substances, or imitation controlled substances on residential premises not occupied by the owner are to make a reasonable effort to advise the owner, either in writing or **in person**, of the arrest that has taken place.

Section 2. Reduces from ten to five days the length of time a landlord must wait after giving written notice to quit for nonpayment of rent or **for certain illegal activities** on premises before FED proceedings can commence; **specifies that forcible entry and detainer (FED) notification period runs concurrently with notification period required under landlord/tenant (LLT) statutes; provides for use of FED remedy after order of abatement served.**

Sections 3 and 4. Conforming amendments - retain current requirement to allow three additional days if notice to quit is provided by mail.

Section 5. **New provision to allow writ of assistance to be issued at same time as order to vacate.**

Section 6. **New provision allowing order of abatement to be used as evidence of unlawful holding by force in FED proceedings.**

Section 7. **Expands current nuisance statutes to provide for abatement of places used for certain illegal activities involving alcoholic beverages, controlled substances or imitation controlled substances. Deletes reference to "lewdness", "assignation", and "immoral acts"**

Section 8. Conforming amendment tying definition of illegal activities under nuisance amendments to definition set out in LLT statutes.

Section. 9. **Allows court to consider evidence of reputation to prove existence of a nuisance.**

Section 10. **Provides that order of abatement terminates rental agreement and that violator is guilty of contempt.**

Section 11. **Amendment to abatement statutes to allow court to order the abated premises to be returned to the owner and to cancel the order of abatement if certain criteria are met; gives court greater leeway in determining the amount of the bond specified as one of the criteria; cancellation of abatement order does not affect termination of rental agreement.**

Section 13. Adds provision to tenant responsibilities under LLT statutes that states a tenant may not knowingly engage or permit others to engage in any of the specified illegal activities on the premises. (Same as in original bill but listed as new subsection)

Section 14. Conforming amendments.

Section 15. Conforming amendment.

Section 16. Conforming amendment.

Section 17. Amends LLT statutes: Lists the specific illegal activities for which a person can be evicted under the nuisance provisions. (Same as original bill except that CS **deletes class A misdemeanors**)

Section 18. **Expands tenant responsibilities to prohibit use of rented commercial buildings for illegal activities; authorizes relief through nuisance abatement process and specifies that an order of abatement terminates the rental agreement.**

Senator Pat Pourchot
February 25, 1991

PROPOSED CS FOR SB 35

Title has been shortened.

Sections 1 and 9. Add new provisions to the statutes under which peace officers who arrest persons for specified illegal activities involving alcoholic beverages, controlled substances, or imitation controlled substances on residential premises not occupied by the owner are to make a reasonable effort to advise the owner of the arrest that has taken place. (No change from original bill)

Section 2. Reduces from ten to five days the length of time a landlord must wait after giving written notice to quit for nonpayment of rent before FED proceedings can commence. (No change from original bill)

Sections 3 and 4. Technical amendments necessary to retain current requirement to allow three additional days if notice to quit is provided by mail. (No change from original bill)

Section 5. Expands current nuisance statutes to provide for abatement of places used for certain illegal activities involving alcoholic beverages, controlled substances or imitation controlled substances. (New provision in CS)

Section 6. Limits illegal activities covered in the nuisance provision to specific felonies involving manufacture or delivery or possession with intent to manufacture or deliver as specified in Section 13. (New provision added to nuisance statutes in CS)

Section. 7. Allows court to consider evidence of reputation to prove existence of a nuisance. (New provision in CS)

Section 8. Allows the court to order the abated premises to be returned to the owner and to cancel the order of abatement if certain criteria are met; gives court greater leeway in determining the amount of the bond specified as one of the criteria. (New provision in CS)

What
does
this
mean?

Section 10. Adds new provision to tenant responsibilities under the Uniform Residential Landlord Tenant Act that states a tenant may not knowingly engage or permit others to engage in any of the specified illegal activities on the premises. (No change from original bill)

Section 11. Technical change. (No change from original bill)

Section 12. Technical change. (No change from original bill)

Section 13. Adds new provision that order of abatement terminates the rental agreement. (New provision in CS)

Section 14. Lists the specific illegal activities for which a person can be evicted under the nuisance provisions. (Deletes class A misdemeanors from specified illegal activities in CS)

Section 15. Expands tenant responsibilities to prohibit use of rented commercial buildings for illegal activities; authorizes relief through nuisance abatement process and specifies that an order of abatement terminates the rental agreement. (New provision in CS)

evict10

DRAFT

MEMORANDUM

TO: Senate Judiciary Committee DATE: February 26, 1991
Members

FR: Senator Pat Pourchot

RE: Proposed CS for SB 35 (Termination of tenancies for
nonpayment of rent and specified illegal activities)

The following are amendments which merit further consideration for inclusion in the proposed CS to SB 35.

1) Add provision to FED statutes to shorten the notification period from ten to five days prior to commencing eviction proceedings **for violation of the specified illegal activities** contained in Section 14 of the proposed CS.

Tenant who engages in the specified illegal activities (all felonies) on the premises should be subject to the shorter notice to quit period as is the person who doesn't pay rent, i.e., 5 days vs. the 10 days under all other circumstances.

2) Add to title, "An Act relating to forcible entry and detainer and to termination of tenancies and eviction for nonpayment of rent and certain illegal activities; **relating to tenant responsibilities**; relating to nuisances; and relating to the duties of peace officers to notify landlords of arrests involving certain illegal activity on rental premises."

The House has requested that the title be amended to allow inclusion of a provision that would prohibit a tenant from

changing the locks on a premises without first notifying the landlord and providing a set of keys to the landlord. If tenant violates this provision a landlord would be permitted to enter with 24-hours notice.

- 3) In Section 5: delete "lewdness," "assignation" and "immoral acts" from definition of illegal activities:

Terms no longer appear relevant. For example, "assignation" means anything assigned or an appointment to meet, especially one made secretly by lovers; tryst; rendezvous. "Immoral acts" mean acts not in conformity with accepted principles of right and wrong behavior; unchaste (which means, indulging in unlawful sexual activity - said especially of women), "Lewd" includes showing or intended to excite lust or sexual desire especially in an offensive way.

- 4) In Section 14 make the following changes:

(page 6, line 10) from AS 11.71.010(a) to AS 11.71.010

Misconduct involving a controlled substance in the first degree: Would add as an evictable offense one of the most serious drug violations, "**continuing criminal enterprise**" (an unclassified felony).

(page 6, line 11) add 11.71.040(a)(5)

Misconduct involving a controlled substance in the fourth degree: Would add as an evictable offense "knowingly keeps or maintains any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is used for keeping or distributing controlled substances in violation of a felony offense" (a class C felony).

- 5) Technical change in Section 10. For clarity, change (8) to (b). Crossreference to Landlord Remedies to indicate that noncompliance would be a violation of the nuisance statutes which would allow landlord to seek an injunctive or abatement order.

Abatement order terminates rental agreement and allows landlord to evict under FED statutes.

6) Amend AS 17.30.160 to allow in-person delivery of the notice of arrest to the property owner at any address. Only if no tax records are maintained for the property should notice to other addresses known to the police be required.

Would eliminate the requirement to provide written notice to the address on tax records if the police officer could notify the property owner directly (who often lives nearby or may be present at the rest). Change requested by Department of Public Safety.

**FLOW CHART FOR EVICTION FOR NONPAYMENT OF RENT
(AVERAGE TIME SCENARIO)**

DAY

- 1 **Rent due (rent due on 1st and delinquent on 6th in most rental agreements)**
2
3
4
5
6 **10-day notice given tenant**
7
8
9 (If landlord accepts full or partial payment of rent,
10 the process is voided; must start over by giving
11 another 10-day notice.)
12
13
14
15
16
17 **Complaint filed in Court - Court sets Hearing date**
18
19 (Law states that tenant must be served by Process
20 Server at least 2 days prior to Hearing date which
21 is usually set 7-10 days following filing of Complaint.
22 If tenant cannot be served in time, landlord must go
23 back to Court for a new Hearing date.)
24
25 **Court Hearing date - obtain Order to Vacate**
26 (Tenant has minimum of 2 days to vacate; Judge may
27 grant additional time.)
28 **Tenant remains: obtain Writ of Assistance - deliver to Troopers**
29 (Troopers usually remove tenant within 24 hours)
30 **House back in landlord's possession**

NOTE:

- 1) **TIME MAY BE EXTENDED**
 - if, the day Court assistance is needed (filing Complaint, Hearing, etc.) falls on a Saturday, Sunday or holiday - extend days accordingly;
 - if tenant fights eviction, Judge may grant Continuance;
 - if tenant cannot be served, landlord has to go back to Court for new hearing date;
 - if 10-day notice not immediately given - time extended accordingly.

- 2) **TIME MAY BE SHORTENED**
 - if there is no 5-day "grace" period in rental agreement;
 - if tenant can be served immediately; Hearing date can legally be set for 3rd day after filing of Complaint if Court calendar permits.

- 3) The eviction process does not recover any cost other than for filing fees, service and process fees and postage under Court Rule 79 and attorney fees under Court Rule 82; motion to recover costs must be filed within 10 days of Clerk entering FDE Order; treated as a judgement. Getting back rent is another more lengthy process.

- 4) If process is not completed within the 1st month, landlord will be out rent for additional time tenant remains on premises.

Alaska State Legislature



Senate Judiciary Committee


Memorandum

TO: LAA, Legal Services
Chenoweth

FROM: Senate Judiciary
Doug Baily

DATE: March 13, 1991

RE: Judiciary Committee Substitute



Please prepare a Judiciary Committee Substitute for SB 35.

Starting with 7-LS0160 of 3/6/91

Sec. 1, page 2, line 2 and 3 to read:

2 that levies and collects a property tax. If no tax records are
3 available, notice may be sent to the owner at any other
address known to the peace officer.

Sec. 9, page 4, line 23

Delete number "2" in citation to statute so it reads
"AS09.50.170(a),"

This can be done in final since it has passed out of committee in
this form!

DB/rt

LAA Legal Serv - Chenoweth
From - Senate Judiciary - Bail -

Please Prepare a Judiciary Committee Substitute
for SB 35.
Starting with 7-LS0160 of 3/6/91

Sec 1, Page 2 line 2 & 3 to read:

- 2 that levies and collects a property tax. If no tax records are
- 3 available, notice may be sent to the owner at any other address
known to the peace officer.

Sec 9, Page 4 line 23

Delete number "2" in citation to Statute so it
reads "AS 09.50.170(a),"

This can be done in final since it has
passed out of committee in the form!



Alaska State Legislature

Al Adams
District L



Official Business

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Juneau, Alaska 99811
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P.O. Box 333
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(907) 442-3245

3111 C Street
Anchorage, Alaska 99503
(907) 561-7622

TO: Senator Pat Pourchot
FROM: Senator Al Adams *APA*
RE: CS for SB 35
DATE: March 11, 1991

Following last week's Judiciary Committee discussions on the proposed committee substitute for SB 35, I would like to recommend the following:

- ° Proposed amendments suggested by the Department of Public Safety regarding clarification of what peace officers should do in regards to notification of landlords when no tax records are available
- ° A letter of intent that the legislature does not endorse other criminal behavior not specifically mentioned in this bill as acceptable activities by tenants.
- ° In section 9 regarding the Admissability of Evidence to Prove a Nuisance, delete the singling out of the alcohol and drug crimes as allowable circumstances to bring in evidence of reputation.
Comment: I understand the inclusion of this based on Court Rule 405 and its provisions regarding reputation of persons, but it does not make sense why we would exclude evidence of reputation regarding place in regards to the activities that might surround a house of prostitution. The noise or traffic that might constitute a nuisance at the residence of a drug dealer could just as well pertain to the noise and traffic at a house of prostitution.



Official Business

Alaska State Legislature

Al Adams
District L

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P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245

3111 C Street
Anchorage, Alaska 99503
(907) 561-7622

TO: Senator Pat Pourchot

FROM: Senator Al Adams *APA*

RE: CS for SB 35

DATE: March 11, 1991

Following last week's Judiciary Committee discussions on the proposed committee substitute for SB 35, I would like to recommend the following:

- Proposed amendments suggested by the Department of Public Safety regarding clarification of what peace officers should do in regards to notification of landlords when no tax records are available
- A letter of intent that the legislature does not endorse other criminal behavior not specifically mentioned in this bill as acceptable activities by tenants.
- In section 9 regarding the Admissability of Evidence to Prove a Nuisance, delete the singling out of the alcohol and drug crimes as allowable circumstances to bring in evidence of reputation.
Comment: I understand the inclusion of this based on Court Rule 405 and its provisions regarding reputation of persons, but it does not make sense why we would exclude evidence of reputation regarding place in regards to the activities that might surround a house of prostitution. The noise or traffic that might constitute a nuisance at the residence of a drug dealer could just as well pertain to the noise and traffic at a house of prostitution.

to Jamie -

SB 35 - Pouchat - Passed Sen CRA 3-0
Some other states similar. Some automatic -
Some at landlord's option.

We have SB 35

New Sec. Police who arrest for alcohol offense on residential premises try to ID owner and give notice in writing.

Amend. Favorable Entry: Detainer.

Adds illegal activity involving alcohol, drugs & imitation drugs as basis for recovery.

Sec 3 Reduces from 10 to 5 days period of holdover on non-payment.

Sec 4 - Changes registered mail notice to delete the extra three days notice for mail.

Sec 5 - ~~Repeal~~ Relocated Xtra 3 days for mail.

Sec 6 Adds drug arrest to basis for action for recovery.

Sec 8 - Adds notice to owner when person arrested for drugs.

Sec 9 - Adds to tenant responsibility - Not engage in illegal drug or alcohol conduct.

Sec 12 - Gives landlord option to terminate for drug/alcohol.

Proposed CS March 6, 91

Shortened Title

Drops arrest as basis for eviction due to constitutional problem. Presumption of nuisance.

Substitute 2 options -

- ① Reduce Notice Period to 5 days for non payment or alcohol/drug
- ② Drug/alcohol offense would be basis of nuisance action ~~to~~ including order terminating a rental agreement.

Hearing SB 35 Eviction -

Donnelly -

Wants to insure landlords access to premises.
Stop tenants from changing locks w/o written permit.

March 12 -

CS is adopted - Version F? of 3-6-91

Public Safety Suggests Amendment - see their position statement of 3-8-91 -

Letter of Intent adopted - No -

Also - delete #2 from Sec 9 - in Stat.

CS as amended Passed w Indiv. Rec.

3642350

CS FOR SENATE BILL NO. 35 (JUDICIARY)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
 Referred:

Sponsor(s): SENATORS POURCHOT, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to termination of tenancies and recovery of rental premises for
 2 nonpayment of rent and certain illegal activities, to tenant responsibilities, to the civil
 3 remedies of forcible entry and detainer and nuisance abatement, and to the duties of peace
 4 officers to notify landlords of arrests involving certain illegal activity on rental premises."

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

6 * Section 1. AS 04.21 is amended by adding a new section to read:

7 Sec. 04.21.075. NOTICE TO LANDLORD FOLLOWING ARREST. (a) A peace officer
 8 who arrests a person for illegal activity involving alcoholic beverages on premises that the peace
 9 officer believes are occupied by a person who is not the owner of the premises shall

10 (1) make a reasonable attempt to discover the identity of the owner of the
 11 premises; and

12 (2) notify the owner of the person's arrest

13 (A) in person; or

14 (B) in writing, at the last address listed on the assessment roll maintained

OK

1 by the municipality under AS 29.45.160 if the premises are located within a municipality
2 that levies and collects a property tax; if an address is not available, notice of the person's
3 arrest may be sent to the property owner at any other address known to the peace officer.

4 (b) In this section, "illegal activity involving alcoholic beverages" has the meaning given
5 in AS 34.03.360.

6 * Sec. 2. AS 09.45.090 is amended to read:

7 Sec. 09.45.090. UNLAWFUL HOLDING BY FORCE. The following are cases of
8 unlawful holding by force within the meaning of AS 09.45.060 - 09.45.160:

9 (1) when the tenant or person in possession of a premises

10 (A) fails or refuses to pay within five days the rent due on the lease or
11 agreement under which the tenant or person holds, or fails to deliver up the possession
12 of the premises within five [FOR 10] days after demand made in writing for the
13 possession; for premises to which the provisions of AS 34.03 (Uniform Residential
14 Landlord and Tenant Act) apply, notice provided under AS 34.03.220(b) by the
15 person seeking to recover possession of the premises satisfies the notice requirements
16 of this subparagraph; or

17 (B) violates AS 34.03.120(b) or AS 34.05.100(a) and, after a notice to
18 quit as provided in AS 09.45.100, the tenant or person in possession of the premises
19 fails or refuses to deliver up the possession of the premises within five days after
20 demand made in writing for the possession;

21 (2) when, after a notice to quit as provided in AS 09.45.100 [AS 09.45.060 -
22 09.45.160], a person continues in the possession of the premises

23 (A) at the expiration of the time limited in the lease or agreement under
24 which that person holds;

25 (B) [, OR] contrary to a condition or covenant in the lease or agreement,
26 including the breach of a condition or covenant set out in AS 34.03.120(a) but not
27 including a condition or covenant relating to nonpayment of rent, or the prohibition
28 set out in AS 34.03.120(b) or AS 34.05.100(a); or

29 (C) without a written lease or agreement;

30 (3) when, after a notice to terminate the tenancy as provided in this title with
31 reference to termination of estate at will or by sufferance or after receipt of an order of

1 abatement under AS 09.50.210(a), a person continues in possession of the premises after
2 expiration of the time for determining the tenancy.

3 * Sec. 3. AS 09.45.100 is amended to read:

4 Sec. 09.45.100. REQUISITES OF NOTICE TO QUIT. A notice to quit shall be in
5 writing and shall be served upon the tenant or person in possession by being

6 (1) delivered to the tenant or person;

7 (2) [OR] left at the premises in case of absence from the premises; [,] or

8 (3) [THE NOTICE MAY BE] sent by registered or certified mail [, IN WHICH
9 CASE AN ADDITIONAL THREE DAYS SHALL BE ADDED TO THE 10 DAYS].

10 * Sec. 4. AS 09.45.100 is amended by adding a new subsection to read:

11 (b) If notice is provided by mail under (a)(3) of this section, an additional three days
12 shall be added

13 (1) to the five days' notice if,

14 (A) under AS 09.45.090(1)(A), the tenant or person in possession of the
15 premises fails or refuses to pay the rent due on the lease or agreement under which the
16 tenant holds or deliver up the possession of the premises; or

17 (B) under AS 09.45.090(1)(B), the tenant or person in possession of the
18 premises fails or refuses to deliver up the possession of the premises; or

19 (2) to the required number of days of notice if notice to quit is given for a reason
20 other than that set out in AS 09.45.090(1).

21 * Sec. 5. AS 09.45 is amended by adding a new section to read:

22 Sec. 09.45.125. ORDER. If, after trial, the court finds and enters judgment against the
23 tenant or person in possession, the court shall enter an order to vacate directed to the tenant or
24 person in possession and, at the request of the person recovering possession of the premises, at
25 the same time or at any later date may issue a writ of assistance to a peace officer to secure that
26 officer's assistance in serving and enforcing the order to vacate.

27 * Sec. 6. AS 09.45 is amended by adding a new section to read:

28 Sec. 09.45.135. ACTION AGAINST TENANT OCCUPYING PREMISES ABATED AS
29 NUISANCE. In an action under AS 09.45.060 - 09.45.160 against a tenant or person in
30 possession of premises for which an order of abatement has been entered under AS 09.50.210(a),
31 a certified copy of the order of abatement is prima facie evidence of unlawful holding of the

1 premises by force by a person who remains on the premises.

2 * Sec. 7. AS 09.50.170 is amended to read:

3 Sec. 09.50.170. ABATEMENT OF PLACES USED FOR CERTAIN ACTS [IMMORAL
4 ACT]. A person who erects, establishes, continues, maintains, uses, owns, or leases a building,
5 structure, or other place used for one of the following activities [THE PURPOSES OF
6 LEWDNESS, ASSIGNATION, OR PROSTITUTION OR ANY OTHER IMMORAL ACT] is
7 guilty of maintaining a nuisance, and the building, structure, or place, or the ground itself in or
8 upon which or in any part of which the activity [LEWDNESS, ASSIGNATION, OR
9 PROSTITUTION] is conducted, permitted, [OR] carried on, continues, or exists, and its [THE]
10 furniture, fixtures, and other contents, constitute a nuisance and may be enjoined and abated:

11 (1) prostitution; or

12 (2) an illegal activity involving

13 (A) alcoholic beverages;

14 (B) a controlled substance; or

15 (C) an imitation controlled substance.

16 * Sec. 8. AS 09.50.170 is amended by adding a new subsection to read:

17 (b) In this section, "illegal activity involving alcoholic beverages," "illegal activity
18 involving a controlled substance," and "illegal activity involving an imitation controlled
19 substance" have the meaning given in AS 34.03.360.

20 * Sec. 9. AS 09.50 is amended by adding a new section to read:

21 Sec. 09.50.175. ADMISSIBILITY OF EVIDENCE TO PROVE NUISANCE. In an
22 action brought under AS 09.50.170(a), the court may consider evidence of reputation within a
23 community to prove the existence of a nuisance.

24 * Sec. 10. AS 09.50.210 is amended to read:

25 Sec. 09.50.210. ORDER OF ABATEMENT. (a) If the court finds and enters [UPON]
26 judgment that a nuisance exists, the court shall enter an order of abatement. The order of
27 abatement shall direct

28 (1) termination of the lease or rental agreement, if any, on the premises
29 subject to the order of abatement, if the tenant who occupies under the lease or rental
30 agreement has been given notice of the proceedings under AS 09.50.170 - 09.50.240;

31 (2) [BE ENTERED DIRECTING] the removal from the building or place of the

1 fixtures, furniture, and movable property used in the nuisance and their sale in the manner
2 provided for the sale of chattels under execution;

3 (3) [. THE ORDER SHALL ALSO DIRECT] the closing of the building or place
4 against its use for any purpose for a period of one year unless sooner released.

5 (b) A person who breaks and enters or uses a building, structure, or other place [SO]
6 directed to be closed by an order entered under (a)(3) of this section is guilty of contempt and
7 shall be punished for contempt as provided in AS 09.50.200.

8 * Sec. 11. AS 09.50.230 is amended to read:

9 Sec. 09.50.230. RELEASE OF PREMISES TO OWNER. (a) The court may order
10 premises abated under AS 09.50.210 delivered to the owner and cancel the order of
11 abatement if [IF] the owner of the premises

12 (1) has not been guilty of a contempt in the proceedings;

13 (2) [, AND] appears and pays all costs, fees, and allowances that [WHICH] are
14 a lien on the premises; [,] and

15 (3) files a bond with sureties approved by the court in an amount [THE FULL
16 VALUE OF THE PROPERTY AS] determined by the court to the effect that the owner will
17 abate the nuisance that exists at the building or place and prevent the nuisance from being
18 established within a period of one year thereafter [, THE COURT MAY ORDER THE
19 PREMISES TO BE DELIVERED TO THE OWNER AND CANCEL THE ORDER OF
20 ABATEMENT].

21 (b) The lease of the property does not release it from a judgment, lien, penalty, or
22 liability to which it may be subject by law.

23 (c) A cancellation of the order of abatement does not affect a termination of a lease
24 or rental agreement made under AS 09.50.210(a)(1).

25 * Sec. 12. AS 17.30 is amended by adding a new section to read:

26 Sec. 17.30.160. NOTICE TO LANDLORD FOLLOWING ARREST. (a) A peace
27 officer who arrests a person for illegal activity involving a controlled substance or illegal activity
28 involving an imitation controlled substance on premises that the peace officer believes are
29 occupied by a person who is not the owner of the premises shall

30 (1) make a reasonable attempt to discover the identity of the owner of the
31 premises; and

1 (2) notify the owner of the person's arrest

2 (A) in person; or

3 (B) in writing, at the last address listed on the assessment roll maintained
4 by the municipality under AS 29.45.160 if the premises are located within a municipality
5 that levies and collects a property tax; if an address is not available, notice of the person's
6 arrest may be sent to the property owner at any other address known to the peace officer.

7 (b) In this section, "illegal activity involving a controlled substance" and "illegal activity
8 involving an imitation controlled substance" have the meanings given in AS 34.03.360.

9 * Sec. 13. AS 34.03.120 is amended by adding a new subsection to read:

10 (b) The tenant may not knowingly engage at the premises in an illegal activity involving
11 alcoholic beverages, an illegal activity involving a controlled substance, or an illegal activity
12 involving an imitation controlled substance, or knowingly permit others in the premises to engage
13 in one or more of those activities at the rental premises.

14 * Sec. 14. AS 34.03.220(a) is amended to read:

15 (a) Except as provided in this chapter, if there is a material noncompliance by the tenant
16 with the rental agreement or noncompliance with AS 34.03.120(a) [AS 34.03.120] materially
17 affecting health and safety, the landlord may deliver a written notice to the tenant specifying the
18 acts and omissions constituting the breach and specifying that the rental agreement will terminate
19 upon a date not less than 20 days after receipt of the notice. If the breach is not remedied in 10
20 days, the rental agreement terminates as provided in the notice subject to the provisions of this
21 section, and at that time the landlord may serve a notice under AS 09.45.100 to quit the
22 premises. If the breach is remediable by repairs or the payment of damages or otherwise and
23 the tenant adequately remedies the breach before the date specified in the notice, the rental
24 agreement will not terminate. In the absence of due care by the tenant, if substantially the same
25 act or omission that constituted a prior noncompliance of which notice was given recurs within
26 six months, the landlord may terminate the rental agreement upon at least 10 days written notice
27 specifying the breach and the date of termination of the rental agreement.

28 * Sec. 15. AS 34.03.220(b) is amended to read:

29 (b) If rent is unpaid when due and the tenant fails to pay rent within five [10] days after
30 written notice by the landlord of nonpayment and the intention to terminate the rental agreement
31 if the rent is not paid within that period of time, the tenancy terminates unless the landlord agrees

1 to allow the tenant to remain in occupancy, and the landlord may terminate the rental agreement
2 and immediately recover possession of the rental unit; only one written notice of default need be
3 given the tenant by the landlord as to any one default.

4 * Sec. 16. AS 34.03.220 is amended by adding a new subsection to read:

5 (d) An order of abatement entered by a court under AS 09.50.170 terminates a rental
6 agreement on the premises subject to the order of abatement.

7 * Sec. 17. AS 34.03.360 is amended by adding new paragraphs to read:

8 (19) "illegal activity involving alcoholic beverages" means a person's delivery of
9 an alcoholic beverage in violation of AS 04.11.010(b) in an area where the results of a local
10 option election have, under AS 04.11.490 - 04.11.500, prohibited the Alcoholic Beverage Control
11 Board from issuing, renewing, or transferring a liquor license or permit under AS 04;

12 (20) "illegal activity involving a controlled substance" means a violation of
13 AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1), 11.71.030(a)(2), 11.71.040(a)(1), 11.71.040(a)(2),
14 or 11.71.040(a)(5);

15 (21) "illegal activity involving an imitation controlled substance" means a
16 violation of AS 11.73.010 - 11.73.030.

17 * Sec. 18. AS 34.05 is amended by adding a new section to read:

18 **ARTICLE 3. ILLEGAL ACTIVITIES IN NONRESIDENTIAL PREMISES.**

19 **Sec. 34.05.100. TENANT RESPONSIBILITIES IN PREMISES OTHER THAN**
20 **DWELLING UNITS.** (a) In rented premises other than premises to which the provisions of
21 AS 34.03 apply, the tenant may not knowingly engage at the premises in an illegal activity
22 involving alcoholic beverages, an illegal activity involving a controlled substance, or an illegal
23 activity involving an imitation controlled substance, or knowingly permit others in the premises
24 to engage in one or more of those activities at the rental premises.

25 (b) If there is noncompliance with (a) of this section, a person may seek relief under
26 AS 09.50.170 - 09.50.240.

27 (c) An order of abatement entered by a court under AS 09.50.170 against premises under
28 this section terminates a rental agreement on the premises subject to the order of abatement.

29 (d) In this section, "dwelling unit," "illegal activity involving alcoholic beverages,"
30 "illegal activity involving a controlled substance," and "illegal activity involving an imitation
31 controlled substance" have the meanings given in AS 34.03.360.

7-LS0160S
Chenoweth
3/6/91

CS FOR SENATE BILL NO. 35 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS POURCHOT, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to termination of tenancies and recovery of rental premises for
2 nonpayment of rent and certain illegal activities, to tenant responsibilities, to the civil
3 remedies of forcible entry and detainer and nuisance abatement, and to the duties of peace
4 officers to notify landlords of arrests involving certain illegal activity on rental premises."

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

6 * Section 1. AS 04.21 is amended by adding a new section to read:

7 Sec. 04.21.075. NOTICE TO LANDLORD FOLLOWING ARREST. (a) A peace officer
8 who arrests a person for illegal activity involving alcoholic beverages on premises that the peace
9 officer believes are occupied by a person who is not the owner of the premises shall

10 (1) make a reasonable attempt to discover the identity of the owner of the
11 premises; and

12 (2) notify the owner of the arrest

13 (A) in person; or

14 (B) in writing, at the last address listed on the assessment roll maintained

1 oy the municipality under AS 29.45.160 if the premises are located within a municipality
 2 that levies and collects a property tax, ~~and at any other address known to the peace~~
 3 ~~officer, of the arrest.~~ *If no tax rec. Avail at any other address*

4 (b) In this section, "illegal activity involving alcoholic beverages" has the meaning given
 5 in AS 34.03.360.

6 * Sec. 2. AS 09.45.090 is amended to read:

7 Sec. 09.45.090. UNLAWFUL HOLDING BY FORCE. The following are cases of
 8 unlawful holding by force within the meaning of AS 09.45.060 - 09.45.160:

9 (1) when the tenant or person in possession of a premises

10 (A) fails or refuses to pay within five days the rent due on the lease or
 11 agreement under which the tenant or person holds, or fails to deliver up the possession
 12 of the premises within five [FOR 10] days after demand made in writing for the
 13 possession; for premises to which the provisions of AS 34.03 (Uniform Residential
 14 Landlord and Tenant Act) apply, notice provided under AS 34.03.220(b) by the
 15 person seeking to recover possession of the premises satisfies the notice requirements
 16 of this subparagraph; or

17 (B) violates AS 34.03.120(b) or AS 34.05.100(a) and, after a notice to
 18 quit as provided in AS 09.45.100, the tenant or person in possession of the premises
 19 fails or refuses to deliver up the possession of the premises within five days after
 20 demand made in writing for the possession;

21 (2) when, after a notice to quit as provided in AS 09.45.100 [AS 09.45.060 -
 22 09.45.160], a person continues in the possession of the premises

23 (A) at the expiration of the time limited in the lease or agreement under
 24 which that person holds;

25 (B) [, OR] contrary to a condition or covenant in the lease or agreement,
 26 including the breach of a condition or covenant set out in AS 34.03.120(a) but not
 27 including a condition or covenant relating to nonpayment of rent, or the prohibition
 28 set out in AS 34.03.120(b) or AS 34.05.100(a); or

29 (C) without a written lease or agreement;

30 (3) when, after a notice to terminate the tenancy as provided in this title with
 31 reference to termination of estate at will or by sufferance or after receipt of an order of

1 abatement under AS 09.50.210(a), a person continues in possession of the premises after
2 expiration of the time for determining the tenancy.

3 * Sec. 3. AS 09.45.100 is amended to read:

4 Sec. 09.45.100. REQUISITES OF NOTICE TO QUIT. A notice to quit shall be in
5 writing and shall be served upon the tenant or person in possession by being

6 (1) delivered to the tenant or person;

7 (2) [OR] left at the premises in case of absence from the premises; [,] or

8 (3) [THE NOTICE MAY BE] sent by registered or certified mail [, IN WHICH

9 CASE AN ADDITIONAL THREE DAYS SHALL BE ADDED TO THE 10 DAYS].

10 * Sec. 4. AS 09.45.100 is amended by adding a new subsection to read:

11 (b) If notice is provided by mail under (a)(3) of this section, an additional three days
12 shall be added

13 (1) to the five days' notice if,

14 (A) under AS 09.45.090(1)(A), the tenant or person in possession of the
15 premises fails or refuses to pay the rent due on the lease or agreement under which the
16 tenant holds or deliver up the possession of the premises; or

17 (B) under AS 09.45.090(1)(B), the tenant or person in possession of the
18 premises fails or refuses to deliver up the possession of the premises; or

19 (2) to the required number of days of notice if notice to quit is given for a reason
20 other than that set out in AS 09.45.090(1).

21 * Sec. 5. AS 09.45 is amended by adding a new section to read:

22 Sec. 09.45.125. ORDER. If, after trial, the court finds and enters judgment against the
23 tenant or person in possession, the court shall enter an order to vacate directed to the tenant or
24 person in possession and, at the request of the person recovering possession of the premises, at
25 the same time or at any later date may issue a writ of assistance to a peace officer to secure that
26 officer's assistance in serving and enforcing the order to vacate.

27 * Sec. 6. AS 09.45 is amended by adding a new section to read:

28 Sec. 09.45.135. ACTION AGAINST TENANT OCCUPYING PREMISES ABATED AS
29 NUISANCE. In an action under AS 09.45.060 - 09.45.160 against a tenant or person in
30 possession of premises for which an order of abatement has been entered under AS 09.50.210(a),
31 a certified copy of the order of abatement is prima facie evidence of unlawful holding of the

1 premises by force by a person who remains on the premises.

2 * Sec. 7. AS 09.50.170 is amended to read:

3 Sec. 09.50.170. ABATEMENT OF PLACES USED FOR CERTAIN ILLEGAL ACTS
 4 [IMMORAL ACT]. A person who erects, establishes, continues, maintains, uses, owns, or leases
 5 a building, structure, or other place used for one of the following illegal activities [THE
 6 PURPOSES OF LEWDNESS, ASSIGNATION, OR PROSTITUTION OR ANY OTHER
 7 IMMORAL ACT] is guilty of maintaining a nuisance, and the building, structure, or place, or
 8 the ground itself in or upon which or in any part of which the illegal activity [LEWDNESS,
 9 ASSIGNATION, OR PROSTITUTION] is conducted, permitted, [OR] carried on, continues, or
 10 exists, and its [THE] furniture, fixtures, and other contents, constitute a nuisance and may be
 11 enjoined and abated:

12 (1) prostitution; or

13 (2) an illegal activity involving

14 (A) alcoholic beverages;

15 (B) a controlled substance; or

16 (C) an imitation controlled substance.

17 * Sec. 8. AS 09.50.170 is amended by adding a new subsection to read:

18 (b) In this section, "illegal activity involving alcoholic beverages," "illegal activity
 19 involving a controlled substance," and "illegal activity involving an imitation controlled
 20 substance" have the meaning given in AS 34.03.360.

21 * Sec. 9. AS 09.50 is amended by adding a new section to read:

22 Sec. 09.50.175. ADMISSIBILITY OF EVIDENCE TO PROVE NUISANCE. In an
 23 action brought under AS 09.50.170(a), the court may consider evidence of reputation within
 24 a community to prove the existence of a nuisance.

25 * Sec. 10. AS 09.50.210 is amended to read:

26 Sec. 09.50.210. ORDER OF ABATEMENT. (a) If the court finds and enters [UPON]
 27 judgment that a nuisance exists, the court shall enter an order of abatement. The order of
 28 abatement shall direct
 29 (1) termination of the lease or rental agreement, if any, on the premises
 30 subject to the order of abatement, if the tenant who occupies under the lease or rental
 31 agreement has been given notice of the proceedings under AS 09.50.170 - 09.50.240;

1 (2) [BE ENTERED DIRECTING] the removal from the building or place of the
2 fixtures, furniture, and movable property used in the nuisance and their sale in the manner
3 provided for the sale of chattels under execution;

4 (3) [. THE ORDER SHALL ALSO DIRECT] the closing of the building or place
5 against its use for any purpose for a period of one year unless sooner released.

6 (b) A person who breaks and enters or uses a building, structure, or other place [SO]
7 directed to be closed by an order entered under (a)(3) of this section is guilty of contempt and
8 shall be punished for contempt as provided in AS 09.50.200.

9 * Sec. 11. AS 09.50.230 is amended to read:

10 Sec. 09.50.230. RELEASE OF PREMISES TO OWNER. (a) The court may order
11 premises abated under AS 09.50.210 delivered to the owner and cancel the order of
12 abatement if [IF] the owner of the premises

13 (1) has not been guilty of a contempt in the proceedings;

14 (2) [, AND] appears and pays all costs, fees, and allowances that [WHICH] are
15 a lien on the premises; [,] and

16 (3) files a bond with sureties approved by the court in an amount [THE FULL
17 VALUE OF THE PROPERTY AS] determined by the court to the effect that the owner will
18 abate the nuisance that exists at the building or place and prevent the nuisance from being
19 established within a period of one year thereafter [, THE COURT MAY ORDER THE
20 PREMISES TO BE DELIVERED TO THE OWNER AND CANCEL THE ORDER OF
21 ABATEMENT].

22 (b) The lease of the property does not release it from a judgment, lien, penalty, or
23 liability to which it may be subject by law.

24 (c) A cancellation of the order of abatement does not affect a termination of a lease
25 or rental agreement made under AS 09.50.210(a)(1).

26 * Sec. 12. AS 17.30 is amended by adding a new section to read:

27 Sec. 17.30.160. NOTICE TO LANDLORD FOLLOWING ARREST. (a) A peace
28 officer who arrests a person for illegal activity involving a controlled substance or illegal activity
29 involving an imitation controlled substance on premises that the peace officer believes are
30 occupied by a person who is not the owner of the premises shall

31 (1) make a reasonable attempt to discover the identity of the owner of the

Needs to conform to Sec 1 change

1 premises; and

2 (2) notify the owner of the arrest

3 (A) in person; or

4 (B) in writing, at the last address listed on the assessment roll maintained
5 by the municipality under AS 29.45.160 if the premises are located within a municipality
6 that levies and collects a property tax, and at any other address known to the peace
7 officer, of the arrest.

8 (b) In this section, "illegal activity involving a controlled substance" and "illegal activity
9 involving an imitation controlled substance" have the meanings given in AS 34.03.360.

10 * Sec. 13. AS 34.03.120 is amended by adding a new subsection to read:

11 (b) The tenant may not knowingly engage at the premises in an illegal activity involving
12 alcoholic beverages, an illegal activity involving a controlled substance, or an illegal activity
13 involving an imitation controlled substance. or knowingly permit others in the premises to engage
14 in one or more of those activities at the rental premises.

15 * Sec. 14. AS 34.03.220(a) is amended to read:

16 (a) Except as provided in this chapter, if there is a material noncompliance by the tenant
17 with the rental agreement or noncompliance with AS 34.03.120(a) [AS 34.03.120] materially
18 affecting health and safety, the landlord may deliver a written notice to the tenant specifying the
19 acts and omissions constituting the breach and specifying that the rental agreement will terminate
20 upon a date not less than 20 days after receipt of the notice. If the breach is not remedied in 10
21 days, the rental agreement terminates as provided in the notice subject to the provisions of this
22 section, and at that time the landlord may serve a notice under AS 09.45.160 to quit the
23 premises. If the breach is remediable by repairs or the payment of damages or otherwise and
24 the tenant adequately remedies the breach before the date specified in the notice, the rental
25 agreement will not terminate. In the absence of due care by the tenant, if substantially the same
26 act or omission that constituted a prior noncompliance of which notice was given recurs within
27 six months, the landlord may terminate the rental agreement upon at least 10 days written notice
28 specifying the breach and the date of termination of the rental agreement.

29 * Sec. 15. AS 34.03.220(b) is amended to read:

30 (b) If rent is unpaid when due and the tenant fails to pay rent within five [10] days after
31 written notice by the landlord of nonpayment and the intention to terminate the rental agreement

1 if the rent is not paid within that period of time, the tenancy terminates unless the landlord agrees
2 to allow the tenant to remain in occupancy, and the landlord may terminate the rental agreement
3 and immediately recover possession of the rental unit; only one written notice of default need be
4 given the tenant by the landlord as to any one default.

5 * Sec. 16. AS 34.03.220 is amended by adding a new subsection to read:

6 (d) An order of abatement entered by a court under AS 09.50.170 terminates a rental
7 agreement on the premises subject to the order of abatement.

8 * Sec. 17. AS 34.03.360 is amended by adding new paragraphs to read:

9 (19) "illegal activity involving alcoholic beverages" means a person's delivery of
10 an alcoholic beverage in violation of AS 04.11.010(b) in an area where the results of a local
11 option election have, under AS 04.11.490 - 04.11.500, prohibited the Alcoholic Beverage Control
12 Board from issuing, renewing, or transferring a liquor license or permit under AS 04;

13 (20) "illegal activity involving a controlled substance" means a violation of
14 AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1), 11.71.030(a)(2), 11.71.040(a)(1), 11.71.040(a)(2),
15 or 11.71.040(a)(5);

16 (21) "illegal activity involving an imitation controlled substance" means a
17 violation of AS 11.73.010 - 11.73.030.

18 * Sec. 18. AS 34.05 is amended by adding a new section to read:

19 ARTICLE 3. ILLEGAL ACTIVITIES IN NONRESIDENTIAL PREMISES.

20 Sec. 34.05.100. TENANT RESPONSIBILITIES IN PREMISES OTHER THAN
21 DWELLING UNITS. (a) In rented premises other than premises to which the provisions of
22 AS 34.03 apply, the tenant may not knowingly engage at the premises in an illegal activity
23 involving alcoholic beverages, an illegal activity involving a controlled substance, or an illegal
24 activity involving an imitation controlled substance, or knowingly permit others in the premises
25 to engage in one or more of those activities at the rental premises.

26 (b) If there is noncompliance with (a) of this section, a person may seek relief under
27 AS 09.50.170 - 09.50.240.

28 (c) An order of abatement entered by a court under AS 09.50.170 against premises under
29 this section terminates a rental agreement on the premises subject to the order of abatement.

30 (d) In this section, "dwelling unit," "illegal activity involving alcoholic beverages,"
31 "illegal activity involving a controlled substance," and "illegal activity involving an imitation

1 controlled substance" have the meanings given in A.S. 34.03.360.

7-LS016(NM
Chenoweth
2/25/91

CS FOR SENATE BILL NO. 35 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS POURCHOT, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to forcible entry and detainer and to termination of tenancies and
2 eviction for nonpayment of rent and certain illegal activities; relating to nuisances; and
3 relating to the duties of peace officers to notify landlords of arrests involving certain
4 illegal activity on rental premises."

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

6 * Section 1. AS 04.21 is amended by adding a new section to read:

7 Sec. 04.21.075. NOTICE TO LANDLORD FOLLOWING ARREST. (a) A peace officer
8 who arrests a person for illegal activity involving alcoholic beverages on premises that the peace
9 officer believes are occupied by a person who is not the owner of the premises shall

10 (1) make a reasonable attempt to discover the identity of the owner of the
11 premises;

12 (2) notify the owner in writing, at the last address listed on the assessment roll
13 maintained by the municipality under AS 29.45.160 if the premises are located within a
14 municipality that levies and collects a property tax, and at any other address known to the peace