

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7853 HOUSE JUDICIARY

Lastly, charter schools that would take funding from public education would be totally unacceptable. It is your duty to make sure we provide the best public education possible for every student. We can not give educational funding to special schools to the detriment of public schools. Educators know that we must reach and teach every student, offering the means to a productive future. You must put every possible dollar into public education. Give us the time, the facilities and the funding, and you will see educational reform that will make a real difference in quality education.

The suggestions you are dealing with in this bill will not change education as we know it. Empower and employ practitioners to create a vision and a plan, and you will see real, dramatic, meaningful change. Give us adequate funding...not more layers, more frustration, and more obstacles!



## ALASKA PUBLIC EMPLOYEES ASSOCIATION/AFT(AFL-CIO)

State Headquarters/Juneau Field Office  
211 Fourth Street, Suite 306, Juneau, Alaska 99801  
Telephone (907) 586-2334, (800) 478-9991, Fax 463-4980

February 8, 1994

The Honorable Cynthia Toohey and  
The Honorable Con Bunde  
Co-Chair, Health and Social Services Committee  
Alaska State House of Representatives  
Room 112, State Capitol  
Juneau, AK 99801-1182

Re: Opposition to CSHB 84

Dear Co-Chair Toohey and Bunde; members of the committee:

APEA/AFT represents public school teachers. We oppose CSHB 84 for the following reasons:

The system of tenure "on application" by peer panels has kept women and minorities out of university employment for decades. That same tendency could work to keep young teachers with new ideas out of the public school system;

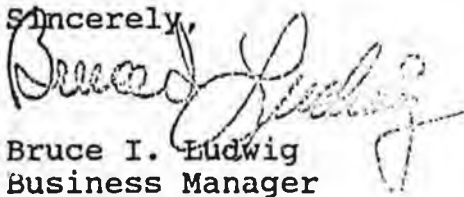
University style tenure determination systems are intended to protect academic freedom, but can frequently result in highly political, penalizing, character attacks upon new teachers.

The tenure recommendations from peer review committees are not binding upon school boards.

Please vote against passage of CSHB 84.

Thank you for your time and consideration of our concerns.

Sincerely,



Bruce I. Ludwig  
Business Manager

### Anchorage Field Office

1689 C Street, Suite 204, Anchorage, Alaska 99501  
Telephone (907) 274-1688, (800) 478-9992, Fax 277-4588

### Fairbanks Field Office

825 College Road, Fairbanks, Alaska 99701  
Telephone (907) 456-5412, (800) 478-9993, Fax 456-7478

Jan. 29, 1994  
 P.O. Box 112822  
 Anchorage, AK 99511

Dear NESS Committee members:

Rep. Battye Davis; Harley Olberg; Tom Brice; Cynthia  
 Toskey; Con Bunde; Pete Knott; Al Vazey; Irene  
 Nicholas;

Re: AS Sec. 14.20.15

The proposed terms of the bill would create an unwieldy system of teacher evaluation for the purpose of determining teacher tenure. Under the present regulations controlling teacher tenure, any tenured teacher who is not functioning in an appropriate manner could be removed from the profession if the school principal evaluator performed evaluations carefully while maintaining proper documentation.

Re: AS Sec. 14.20.152.(b). Who will pay the local tenure review committee? Anchorage has approximately 3000 teachers. Have the number of hours been recalculated that would be required to evaluate their tenure applications? How add on their recalculation. Who would be paid to keep track of the enormous pile of paperwork? In my opinion the taxpayers money would have more direct educational benefit if it were spent to hire more teachers to reduce class size so as to permit <sup>more</sup> individual instruction at all grade levels.

Sec. 14.20.153 Duties of a Local Tenure Review Committee. This section has provisions vis., (d)(e)(f) that violate the Open Meeting Act and many individual district contracts regarding the privacy of personnel files. These sections leave so many loopholes for violation of teacher's privacy that they could easily lead to McCarthy-esque witch-hunts and personality conflicts leading to dismissal of creative, resourceful teachers.

School Boards already have so much to attend to if they properly care for the needs of their districts that they must logically delegate duties. The Quabbin School District has over 3,000 teachers. The Tenure Review Committee would necessarily meet almost constantly & the School Board would be reduced to rubber-stamping the T.R.C.'s recommendations as it does now regarding the building principal-evaluator's recommendation. These recommendations are made by professional educators who are more attuned to the needs of the students. Sec. 14.20.172 (a)(b)

The present tenure regulations, if properly construed, protect the student and the teachers. Please do not pass C.S. for H.B. #84 from your committee.

Thanks you,  
Mary H. Bonard  
(Mary H. Bonard)

DATE: 1/29/94

To members of the HESS Committee: Brice, Knott, Bunde, Nicholia, B Davis, Olberg, Vezey, Toohey

Please oppose CS HB 84 (Alaska 2000)

Rationale: Tenure only guarantees Just Cause in termination procedures. This protection is needed to insure high quality teachers. Teachers who must be concerned with being fired without cause may lesson requirements and be less inventive in planning.

Michael C. McVee	<i>Michael C. McVee</i>	Anchorage
PRINT NAME	SIGNATURE	CITY

DATE: January 29, 1993

To members of the HESS Committee: Brice, Knott, Bunde, Nicholia, B Davis, Olberg, Vezey, Toohey

Please oppose CS HB 84 (Alaska 2000)

Rationale: Teachers are paid to teach students... not evaluate teachers. That's the job of the principal! There are more students coming in to Bowman Elementary every week. Class size is going up! When we opened we had 650 students... Now we're at 823. We need

Kathi McLeod	<i>Kathryn McLeod</i>	Anchorage
PRINT NAME	SIGNATURE	CITY

more teachers in the classroom!

I'm a constituent of Rep. Toohey.

Let us do the job we're paid for!



# Alaska State Legislature

HB 85

Please enter into the record my testimony to the House HESS ✓  
Senate C&RA  
committee name

committee on HB 85 / SB 62 , dated 4/6/93  
bill/subject

HB 85 and SB 62 separates funding for Gifted Education from Special Services. Traditionally in other States, this has marked the beginning of the end of Gifted Education. I support this bill as far as how foundation funding is affected. And I urge you to delete Section 7 from the bill leaving Gifted Ed. as it currently exists without changes or deletion in section 7 I believe Gifted Ed will soon cease to exist. It has been shown that in schools where there is a GT program the quality of education for all students is enhanced. For the future of our state, and the education of our youth I urge you to delete Section 7 and help pass the attached bill this session. Thank you.

Signed: Chris Loring  
Testifier

parent  
Representing (Optional)

35035 Lowbusly Homer AK 99603  
Address

235-7475  
Phone No.

VICKIE BEVENS  
PTA; PARENTS FOR EDUCATION - KETCHIKAN  
215 WHITE CLIFF ST  
KETCHIKAN, AK 99901 (907) 225-0770

**EDUCATION BILL TELECONFERENCE**

**Thursday, February 18, 3:00**

HB 84

My name is Vickie Bevens and I am the Southeast Regional Vice President of State PTA as well as Ketchikan's PTA Council Representative and White Cliff grade School's PTA President. I am also a member of Parents for Education Committee here in Ketchikan. Thank you for giving us an opportunity to speak. I appreciate the fact that you are giving the public a chance to participate, that you are listening to the public and that you are giving your time.

We are concerned about Education for our State and specifically concerned that the choices made are those of the majority-all people, including Teachers, PTA's and Parents. We do not find this bill to be a representation of that ideal. The Alaska 2000 Committees were not a true representation of the majority. Surveys were sent out to many people, but the items that are in this bill were at the bottom of the list of the answers given. There were at least 50 items ahead of the items on this bill that the people of Alaska wanted and they are not acknowledged, addressed or included at all.

We believe the School Construction and Improvements are necessary and valid and we encourage this portion of the bill to be studied and considered.

We believe that extending the school year will increase the needed contact time only in number of days, but adding days is useless until we solve the more important and valid problems of class ratio, formula

value base, funding and basic education in general. We can improve the days we have with less in-service programs or by lumping those in-service days before or after the school year. They are a general interruption to the school day, many of them are pointless and children lose valuable school time with constant interruptions. We can also extend the days we have now so that children and teachers have a decent amount of time to digest their lunches, exercise and regroup so that their afternoon study time is worthwhile. Extending the year at this time will change nothing until we make constructive changes from within. It is worthless without the tools of basic and correct education in place.

We do not believe public money should be provided for anything but public schools. Charter schools are private schools and should be set up with private funds. We believe Charter schools will create exclusiveness in our country and state that already has too many divisions and is beginning to look like the Caste System of India. While we appreciate and acknowledge the special intelligence and talents and interests of all people; ours is a free country where people can start private schools for their specific needs, but our government needs to spend their money on the needs of the majority of all children by improving the public education system for all equally. While this portion of the bill speaks about being fair to all, it is set up to create human nature problems of special favors and cheating - stacking the deck, etc.

We do need to work toward more family involvement, community involvement and teamwork between school

Districts, School Boards, Teachers, Communities and Families and Parents and Students. While we believe in the concept of advisors, I must say that we should not recreate the wheel and use the resources we have in place such as the organization of PTA and we should encourage policies of Parent and Family Involvement to be in every School District as PTA tries to do and advocate for all children. We should mandate where there are not mandates for these kinds of policies and make each school district be accountable for their efforts in these areas. We need policies that will instruct Districts in promoting these important concepts and we should use the resources we have so carefully established such as PTA. In several districts already, the School District has PTA, Teacher and Community Advisors on all School Board standing committees - every District should. Several Districts have PTA Councils who are representatives from each school and these people work directly with the district and board in establishing good education - every district should be doing this. We do not need to start over - we simply need to acknowledge what we have and expect districts to work this way. PTA representatives, Teachers and Community Members together with the school board and district administrators creates a more equal and evenly distributed voice in education. In our District alone, we have formed a PTA at every public school this year as well as a Council of PTAs and we are working with the School Board to develop advisors. Our board has held a town meeting to ask our opinions and our Parents are beginning to feel some ownership in the public school system as they should. Our District has a long way to go, while others have crossed some of these milestones. Putting Parent Involvement Policies into

legislation will help the cause of a better education system.

Funding grants for school improvement is not a bad thing and it is important to encourage trying new things, but do not take regular funding to do this. Our schools, teachers, buildings and children barely have enough materials and books to learn the basics. Programs that encourage kids to enjoy school are constantly being cut and social programs that should be the responsibility of Parents and Community are slipping into the education pot leaving us with less money for a good basic education.

We have not taken a position on Tenure except that we feel this area of the bill needs more consideration.

We ask the question- what problems are the parts of this bill trying to fix. We believe we have a lot to fix before we can start creating the new. We feel this bill tries to cover too many areas, too many items that most people do not want and it does not accomplish anything that will truly help education except in the area of building and improving the school buildings.

We appreciate your time. We know you have many decisions to make. We feel education is important and we are happy to see such an effort be made to improve it, but let us be cautious in how we spend and why we spend and let's make sure we remember this is the public school system and it is for all children.

Thank you, Vickie Bevins, 215 White Cliff St., KTN99901  
225-0770



SOUTHEAST  
ISLAND  
SCHOOL  
DISTRICT

1621 TONGASS AVENUE SUITE 301  
POST OFFICE BOX 8340  
KETCHIKAN, ALASKA 99901  
(907) 225-9658 OR 225-9659

Robert Weinstein  
SUPERINTENDENT

February 17, 1993

Representative Con Bunde, Co-Chair  
House Health, Education and Social Services Committee  
Alaska House of Representatives  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Bunde:

This letter is to indicate support for the comprehensive education-related legislation which Governor Hickel has recently introduced. For your information, I am in my twelfth year as Superintendent of Southeast Island School District. This is the first time in those years that I have seen a proposal from an administration which is addressing a number of critical issues facing education in Alaska in a comprehensive manner.

My specific comments are as follows.

1. SB 60/HB 83: Construction and Major Maintenance

It should be clear from the growing backlog in school construction throughout the state of Alaska that a commitment does need to be made now to construct needed facilities. I realize that additional refinement needs to occur with respect to the amount of available funding, appropriate funding sources, and the project list itself. However, it is refreshing to see recognition of a large gap between existing and needed facilities, as well as a sensible plan to do something about it, so that critical facility needs in both urban and rural Alaska begin to be addressed.

2. SB 61/HB 84: Alaska 2000 Recommendations

A number of the recommendations which the Governor is proposing in order to implement his Alaska 2000 program have the potential for positive impacts on education in Alaska.

A. Research and Development Grants: I think it is important to education in the state of Alaska that there be a mechanism whereby the Department of Education can approve research and development grants which are directly linked to school improvement. It seems to me that this will be a very cost effective manner of introducing successful model projects for student learning, which after development can then be replicated in other school districts in the state at minimal cost.

B. Charter Schools: A charter school approved by the local school board makes sense if the result is that appropriate decision-making occurs at the local school level to the greatest extent possible. I would suggest consideration of some technical changes. For example, Section 13 (a) should be modified so that the listed exemptions are permissive, not automatic, i.e. there may

Testimony

Representative Bunde

Page 2

February 17, 1993

be a mutual desire for exemption from some, but not all, of the specified local requirements. The bottom line, however, is that, if state and/or local requirements are impeding student performance, a waiver or exemption process within the context of charter schools is most appropriate.

C. Tenure: I have some questions as to how the changes proposed in sections 9 and 10 would be efficiently implemented in a regional school district.

3. SB 62/HB 85: School Foundation Program Changes

After many years of examining available data, there is no question in my mind that the current area differentials are based upon inaccurate, if not obsolete, data, and are therefore inequitable. In order to have equitable school programs throughout the state, the Legislature must assure that the basic school foundation formula itself addresses equity. The proposed school price index is based upon recent data, including key areas of actual school costs, as opposed to arbitrary area differentials lacking support from objective data. For those reasons I strongly support the concept of the Alaska school price index as a replacement for area differentials.

In closing, I ask that you give support to the concepts embodied in these proposals, with further refinement of details as is appropriate to each piece of legislation.

Sincerely,



Robert Weinstein  
Superintendent

RW:eb  
cc: Commissioner of Education



ANCHORAGE  
SCHOOL DISTRICT  
4600 DeBarr Road  
P.O. Box 196614  
Anchorage, Alaska 99519-6614  
(907)333-9561

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February 3, 1994

Representative Bettye Davis  
Alaska State Legislature  
Juneau, Alaska

Dear Bettye,

Larry Wiget asked that I go over HB 84 and address, in particular, the sections which focus on teacher tenure.

I understand amendments to the committee substitute have already been adopted and that the general advisory boards have been eliminated. The Tenure Committee is still in the draft; its members will be appointed by the School Board but committee members shall be subject to removal only for just cause. Just cause is a term of art, usually applied in employment relations, not to voluntary committee positions. It would be difficult for the Board to even develop reasonable procedures for removing a committee member who behaved badly. Such procedures would need to be in place before the process began.

The responsibility of the Tenure Committee would be awesome: it would not only conduct a performance review for every tenured teacher, every five years, but of every non-tenured teacher, every year. The current teacher work force is about 2830. Even though the law will apply only to those hired after July 1, 1994, eventually the numbers of teachers involved in this new program will grow large. Assuming performance review would include actual observation, rather than a simple review of evaluation documents produced at the school level, the financial and operational impact of releasing three to five teacher committee members to conduct such observations would be considerable. Further, the task of actually pulling together one or more committees to review all paperwork generated by all these observations and to discuss development of recommendations to the School Board, would be truly daunting.

We are trying to negotiate a more significant role for teachers in the evaluation of colleagues. Since teacher associations have a duty under law to

fairly represent the interests of those in their bargaining units, when testimony regarding teacher performance deficiencies is provided by other teachers, the traditional distinction between supervisor and supervisee will become difficult to define. That may not be a bad thing but the ramifications are serious and there is little evidence in the proposed bill to indicate that those ramifications have been explored. Under the terms of the current agreement between the District and the Association, teachers cannot evaluate other teachers. Clearly, law would supersede contract, if there was a clear mandate defined, but principals and teachers would require considerable time to discuss how a system of colleague review might actually work.

All in all, if the purpose of the changes the bill supports is improvement in the evaluation process, that purpose is unlikely to be met and we oppose its adoption, for the following reasons:

- At a minimum, the bill would create a bureaucratic monster which would produce mountains of paper which School Boards would be obligated to review before they could fulfill their statutory obligation to judge whether a teacher should retain employment.
- If the concern reflected in the bill is that there are too many incompetent teachers in the system and something ought to be done to send them on their way or help them to become better, there needs to be careful examination of the issues which contribute to that problem, if it is real.

The recommendation of the Anchorage School District, submitted as testimony before the Commissioner of Education during hearings in support of the Alaska 2000 initiative, was to reduce the burden which Districts must meet in terminating tenured teachers. A simple just cause standard, with appeal only to an outside arbitrator through a normal grievance process, would put teachers on the same footing as other public employees in the state. The current teacher termination process is incredibly cumbersome; it is designed to be little used and, in that sense, it works as it was designed to work. The method of attack on that poor and cumbersome system, contained in HB 84, would make an already bad situation worse, under the guise of increasing accountability.

If the Legislature wants a cleaner, more efficient and effective system of teacher evaluation, we suggest they propose a clean, efficient, and effective method of addressing that want. Specifically:

1. Extend the time needed to secure tenure, from two to three full years or more;

2. eliminate AS 14.20.170-180, in its entirety. Replace it with an addendum to AS 23.40 that says that collective bargaining agreements must contain grievance procedures which end in binding arbitration and apply to termination of teachers for just cause, without access to School Board review or trial *de novo*.

If this proposed modification to the present system does not produce the desired results in three to five years, we'll go back and try again. Let's begin with what we know and move forward, rather than create what we know nothing about and run a substantial risk of falling on our collective faces. Right now, we don't know what problem the bill hopes to fix or what evidence was developed that suggests this proposed solution will be any less onerous than the problem.

Please understand that these recommendations reflect administrative discussions only, they do not constitute a public position of the Anchorage School Board. If such a position is needed, we will take steps to calendar for necessary discussion but it would not likely occur before late March or early April, at the soonest.

If I can be of further assistance, please let me know.

Sincerely,



Lee Wilson  
Executive Director/Labor Relations

cc Bob Christal  
Carol Comeau

FAIRBANKS NORTH STAR BOROUGH BOARD OF EDUCATION

Resolution 93-13

Teacher Tenure

WHEREAS, the quality of teaching is important in the development of strong educational programs in the state, and


WHEREAS, two years is often insufficient time for a teacher new to a school district to develop professionally and successfully, and

WHEREAS, two years is often not long enough to adequately evaluate the capability of a teacher prior to granting tenure, and

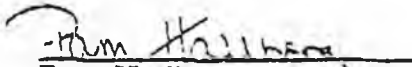
WHEREAS, the two year tenure restricts school boards' abilities to manage for quality education,

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks North Star Borough Board of Education supports the Association of Alaska School Boards' resolution #93-24 recommending that A.S. 14.20.150 (a) and (b) be amended to require five years of probation to obtain tenure in the school systems of the State of Alaska.

PASSED AND APPROVED OCTOBER 5, 1993.

  
\_\_\_\_\_  
Gene Redden, President  
Board of Education

ATTEST:

  
\_\_\_\_\_  
Pam Hallberg  
Secretary to the Board

H B

8 6

Rep. Brian Porter, Chairman

# House Judiciary Committee

Date: March 12, 1993  
 Place: Capitol Room 120

\*HB 86 Sanctions for Property-Related Offenses  
 HB 79 Damage of Property by Minors

Subject of Meeting: HB 152 Magistrate Jurisdiction  
 HB 58 Admin. of Budget Reserve Fund

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Margot Knuth	Law-Crim	Box 110300	9981		5-4049	<input checked="" type="radio"/> Y <input type="radio"/> N	HB <del>86</del>
Jay Frank	State Farm Allstate	431 N. Franklin St Juneau			586-5777	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 79
H.C. SCHRISTENSEN	COURT SYSTEM	303 K ST ANCH	99501		264-8228	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 152
Randall Harris	DHSS	Box 110630 Juneau	99811		465-3187	<input type="radio"/> Y <input checked="" type="radio"/> N	HB 86
Jim Baldwin						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
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POSITION PAPER

2nd SSHB 86

For An Act Entitled: "An Act relating to sanctions for property related offenses, to remedies for property related offenses committed by juveniles, and to certain records of those offenses."

Background

In 1899 the first juvenile court was created in Cook County Illinois with the intent to replace the family in the wake of parental failure. Family depravity was considered to be the root of delinquent behavior. The approach to delinquency was moralistic. Parental failure to raise children with the proper values resulted in "hooliganism" and crime. Lack of values, discipline, and respect for authority were the hallmarks of delinquent behavior.

The solution to the problem was to remove children from depraved environments and place them in reformatories in an attempt to replicate the functions of the family.

The right of the state to intervene in the life of a child differently from the way it intervenes in the life of an adult was predicated on the concept of *parens patriae* (parent of the country). The juvenile court was empowered to intervene for a wide variety of transgressions from adult crimes to juvenile status offenses.

The differential handling of juveniles today has its underpinnings in the belief that children are persons whose moral and cognitive abilities have not yet fully formed.

Prior to the formation of the court juveniles were treated in the same manner as adult offenders. This approach was found to be futile as the juvenile crime was ever increasing.

Analysis/Program Impact

It is the intent of this bill 1) to require the court to order restitution in certain property offenses by juveniles; 2) to release the name and photograph of juvenile offenders for certain property crimes; 3) to seize motorized vehicles used in the commission of certain property offenses.

It can be concluded that these actions are necessary to appropriately sanction the offender and provide restitution

# POSITION PAPER

STATE OF ALASKA ★ DEPARTMENT OF HEALTH & SOCIAL SERVICES

the to property owner. In the past this was sometimes the case as it appeared to the public that the offender was hiding under the confidentiality statute (AS 47.10.090).

The department has strongly supported restitution for victims to include the taking of impact statements from the victims. This process was further strengthened through amendments to AS 47.10.070 during the 17th legislative session.

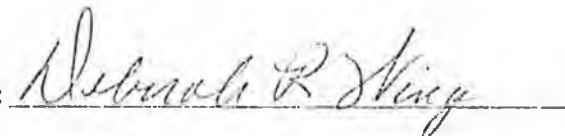
The new law allows the department to involve all victims of juvenile crime in the court process no matter the type of offense. Victims have the right to attend the juvenile hearings, file victim impact statements for consideration by the court and enter sworn testimony at the hearing.

## DEPARTMENTS POSITION

The department recognizes the need for victims of juvenile crime to have access to information relating to their victimization. The department supported during the 17th Legislature the amendments to AS 47.10.070 which allow the access and participation of all victims in juvenile court proceedings. The department contacts victims and makes every effort to include them in the process of developing recommendations to the court which includes restitution.

This bill would lift the seal of confidentiality for the name and photographs of minors 15 years and older charged with certain property offenses. The department opposes releasing this information about a minor, to prevent the public humiliation that could be brought upon young siblings and other family members that were not party to the offense. The release of such records should require some form of guaranteed protection by the court.

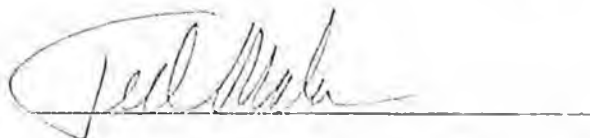
Recommended:



Date: 3/10/93

Deborah R. Wing, Director  
Division of Family and Youth Services

Approved:



Date: 3/11/93

Theodore A. Mala MD, MPH  
Commissioner  
Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. 2nd SSHB 86

Revision Date: March 9, 1993 Dept. Affected: Health and Social Services  
 Title: "An Act relating to remedies for property related offenses committed by juveniles" BRU: Family & Youth Services  
 Sponsor: Representative(s) BUNDE, Green Component: Southeastern, Southcentral, & Northern Regions  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0258, 0254, & 0255

**Expenditures/Revenues:** (Thousands of Dollars)

	FY94	FY95	FY96	FY97	FY98	FY99
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE						

**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact for the Department if this bill were to become law.

Prepared by: Deborah R. Wing, Director  
 Division: Department of Health & Social Services

Phone: 465-3191  
 Date: 03/09/93

Approved by Commissioner: Theodore A. Mala, MD, MPH  
 Agency: Department of Health & Social Services

Date: 3/11/93

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House of Representatives

SPONSOR STATEMENT  
2nd SPONSOR SUBSTITUTE HOUSE BILL 86

This bill requires that an automobile, motorcycle, snowmachine, or all-terrain vehicle that is used by a person (in the commission of the crime) in connection with a first or second degree criminal mischief conviction to be forfeited to the state. First degree criminal mischief includes crimes that involve property damage in excess of \$100,000, food and drug tampering, intentional damage to an oil or gas pipeline, and interrupting or impairing a utility service or emergency services organization. Second degree criminal mischief includes property damage of \$500 or more, tampering with an oil or gas pipeline or with an airplane or helicopter; recklessly creating a risk of damage in an amount exceeding \$100,000 to property of another by using widely dangerous means, and joyriding if the vehicle is damaged or the owner incurs a loss in excess of \$500 or more.

The bill also amends the state criminal code as it relates to restitution AS 12.55.045 by adding language relating to remedies for property-related offenses committed by juveniles. If a defendant is under the age of 18, and the conviction is for an offense for which the person was prosecuted as an adult, and was for criminal mischief, the court will be required to order the defendant to make suitable restitution to the property owner.

2nd Sponsor Substitute HB86 amends AS 47. 10.080(b), (Delinquent Minors and Children in Need of Aid. Judgments and Orders) to provide that a court, if it finds a minor's delinquency is based on a violation of the state's criminal mischief law, will not be allowed to refuse to make an order of restitution to the benefit of the owner of the real or personal property.

The bill adds language to AS 47.10.090 (Delinquent Minors and Children in Need of Aid) to provide that the name, picture and petition of a 15 year old who is charged with first or second degree criminal mischief will be a matter of public record and will be subject to public inspection, if a report of investigation or a petition seeking adjudication of the minor as a delinquent is submitted under state law relating to adjudication of children.

If enacted 2nd SSHB86 will apply to offenses committed after the bill's effective date. I urge the passage of this bill.

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

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MEMORANDUM

February 17, 1993

**SUBJECT:** 2d Sponsor Substitute for House Bill 86, relating to sanctions for property offenses, to remedies for property-related offenses committed by juveniles, and to records of those offenses -- sectional analysis (Work Order No. 8-LS0436\O[as revised])

**TO:** Representative Con Bunde

**FROM:** Jack Chenoweth  
Legislative Counsel

This measure, a revision of the bill in the form originally introduced, generally amends state law as it treats with property-related offenses.

**SANCTIONS FOR PROPERTY OFFENSES:**

The addition of a subsection (b) to existing AS 11.46.487 made by **bill section 2** is intended to require the forfeiture to the state <sup>1/</sup> of an automobile, motorcycle, snow machine, or all-terrain vehicle--the means of transportation that provides access to the damaged property--when that vehicle has been "used by a person in aid of a violation" of either of the two statutes that impose a felony penalty for criminal mischief. <sup>2/</sup> The two statutes specifically cited are AS 11.46.480 (criminal mischief

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<sup>1/</sup> See in this regard AS 12.55.015(c), part of the Code of Criminal Procedure:

(c) In addition to the penalties authorized by this section, the court may invoke any authority conferred by law to order a forfeiture of property, suspend or revoke a license, remove a person from office, or impose any other civil penalty.

<sup>2/</sup> The new subsection supplements the existing forfeiture language of AS 11.46.487, which, because of the proposed addition, would become subsection (a), and which reads, and would continue to read:

Sec. 11.46.487. FORFEITURE OF PROPERTY UPON CONVICTION. Firearms and other personal property, except a motor vehicle, used in aid of a violation of AS 11.46.460 [disregard of a highway obstruction],

(continued...)

in the first degree, a class B felony) <sup>3/</sup> and AS 11.46.482 (criminal mischief in the second degree, a class C felony) <sup>4/</sup>.

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<sup>2/</sup>(...continued)

11.46.462 [unlawful possession of an official traffic control device], or 11.46.484(a)(7) [misdemeanor criminal mischief involving a traffic control device] may be forfeited to the state upon conviction of the offender for the crime.

<sup>3/</sup> Definition of the acts that constitute the offense of criminal mischief in the first degree is set out in AS 11.46.480(a). The subsection provides:

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

(1) with intent to cause a substantial interruption or impairment of a service rendered to the public by a utility or by an organization which deals with emergencies involving danger to life or property, the person damages or tampers with property of that utility or organization and causes substantial interruption or impairment of service to the public;

(2) with intent to damage property of another by the use of widely dangerous means, the person damages property of another in an amount exceeding \$100,000 by the use of widely dangerous means;

(3) the person intentionally damages an oil or gas pipeline or supporting facility; or

(4) with intent to cause physical injury to another person, the person:

(A) tampers with an item that is a food, drug, or cosmetic or a container for the item; or

(B) delivers, dispenses, or distributes an item described in (A) of this paragraph knowing that a person has tampered with the item.

<sup>4/</sup> Definition of the circumstances that give rise to the offense of criminal mischief in the second degree is set out in AS 11.46.482(a):

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

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

(2) the person tampers with an oil or gas pipeline or supporting facility or an airplane or helicopter with reckless disregard for the risk of harm to or loss of the property;

(3) the person recklessly creates a risk of damage in an amount exceeding \$100,000 to property of another by the use of widely dangerous means;

(continued...)

The change made by this bill section is applicable to any person convicted of criminal mischief in the first or second degree.

#### REMEDIES FOR PROPERTY-RELATED OFFENSES COMMITTED BY JUVENILES:

The elements of the sponsor substitute that affect this portion of the bill title are to be found in **bill sections 3 and 4**. These are roughly parallel provisions that direct the courts to impose a restitution requirement on the juveniles identified in those specific bill sections who commit damage to real or personal property of a victim. The two areas are addressed by the proposed amendment to AS 12.55.045(a), in the event a juvenile is prosecuted as an adult (the change made by bill section 2) and by the proposed amendment of AS 47.10.080(b)(4) addressing juveniles adjudicated delinquent (the change sought by bill section 3). Restitution to the property owner shall be ordered in both instances if (1) the juvenile was under 18 years of age and (2) the conviction involved the juvenile's violation of at least one of the four classes of criminal mischief <sup>5/</sup> involving damage to real or personal property of the victim.

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<sup>4/</sup>(...continued)

(4) the person drives, tows away, or takes the propelled vehicle of another and the vehicle or any other property of another is damaged or the owner incurs reasonable expenses as a result of the loss of use of the vehicle in a total amount of \$500 or more; or

(5) the person drives, tows away, or takes the propelled vehicle of another and the vehicle is marked as a police or emergency vehicle.

<sup>5/</sup> In addition to the two felony provisions--criminal mischief in the first and second degrees--set out in earlier notes, state law also provides two classes of misdemeanor criminal mischief. AS 11.46.484(a) defines the offense of criminal mischief in the third degree, a class A misdemeanor:

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

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

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

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

(continued...)

RECORDS OF PROPERTY-RELATED OFFENSES COMMITTED BY JUVENILES:

Two sections of the committee substitute, **bill sections 1 and 5**, propose changes that reverse the presumption of confidentiality of certain juvenile records and open those records to public inspection.

Under the change proposed by **bill section 5**, the name and picture of a minor 15 years of age and older who is involved with violation of felony criminal mischief is made a public record.

**Bill section 1** amends the general public record statute, AS 09.25.120; the confidentiality of records relating to juveniles is maintained, but the section is amended to recognize the exception for the release of the name and picture of certain minors involved with felony criminal mischief.

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5/ (...continued)

agreement;

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

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

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

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

AS 11.46.486(a) defines the offense of criminal mischief in the fourth degree, a class B misdemeanor:

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

(1) with reckless disregard for the risk of harm to or loss of the property or with intent to cause substantial inconvenience to another, the person tampers with property of another;

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

(3) the person rides in a propelled vehicle knowing it has been stolen or that it is being used in violation of AS 11.46.482(a)(4) or 11.46.484(a)(2).

Representative Con Bunde  
February 1, 1993  
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**APPLICABILITY:**

**Bill section 6** clarifies that the changes that are proposed in this measure apply to offenses that are committed after the bill's effective date.

JBC:mi  
93-030.mai

# Confidentiality of Juvenile Court Proceedings

*Linda A. Szymanski, Esq.*

Copyright by:

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Pittsburgh, PA 15220  
(412) 227-6950

March, 1991



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Michigan . . . . .85th Legislature. Regular Session of 1990. Received 12-19-90.

Minnesota . . . . .1990 Legislation. Received 8-15-90.

Mississippi . . . . .Regular Session, 1990. Received 7-16-90.

Missouri . . . . .1990 Legislation. Received 10-15-90.

Montana . . . . .No Legislative Session in 1990. Received 12-21-90.

Nebraska . . . . .1990 Legislation. Received 11-5-90.

Nevada . . . . .1989 Legislative Session. Received 10-4-89.

New Hampshire . . . . .Laws enacted during the 1990 Session of the General Court. Received 7-19-90.

New Jersey . . . . .1990 Legislation. Received 11-16-90.

New Mexico . . . . .1990 Legislation. Received 1-10-91.

New York . . . . .Includes laws of the 210th Session of the Legislature (1987) through Chapter 855. Received 12-07-87.

North Carolina . . . . .1990 Session of the General Assembly. Received 1-7-91.

North Dakota . . . . .1989 Cumulative Supplement. Received 7-31-89.

Ohio . . . . .1990 Legislation. Received 10-29-90.

Oklahoma . . . . .1990 Legislative Session. Received 10-18-90.

Oregon . . . . .1989 Legislation. Received 1-26-90.

Pennsylvania . . . . .1990 Session. 174th Regular Session. Laws Approved to 11-29-90.

Rhode Island . . . . .1990 Legislation. Received 10-18-90.

South Carolina . . . . .1990 Cumulative Supplement. Containing statutes enacted through the 1990 Session of the General Assembly. Received December 17, 1990.

South Dakota . . . . .1990 Pocket Supplement. Received 6-9-90.

Tennessee . . . . .1990 Legislation. Received 7-16-90.

Texas . . . . .1991 Cumulative Annual Pocket Part (includes laws through the 1990 Sixth Called Session of the 71st Legislature). Received 11-16-90.

Utah . . . . .1990 Utah Legislative Report. Received 7-23-90.

Vermont . . . . .1990 Legislative Session. Received 10-16-90.

Virginia . . . . .1990 Cumulative Supplement, containing 1990 Legislation. Received 7-16-90.

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## Note to Researchers

This document was produced by a computerized search of a database that contains state juvenile codes--the Automated Juvenile Law Archive. No reference to case law or court rules is included in this document. For each document, a search is made of all fifty-one jurisdictions. If a jurisdiction is not included in the document, it means the jurisdiction has no statute contained in the juvenile code on the document topic. The date on the cover sheet indicates the month and year when the database was searched. The Currency of Legislation sheet indicates how recent the legislation is for each state. If any further clarification is needed or any errors or omissions are noted, please feel free to contact Linda A. Szymanski, Esq. at (412) 227-6950.

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## PERSONS WITH A PROPER INTEREST IN THE CASE OR THE WORK OF THE COURT

AL 12.15.65  
AK 47.10.070  
CA WI.346  
CA WI.676  
CO 19.2.904  
DC 16.2316  
GA 15.11.28  
HI 571.41  
IL 37.801.5  
IA 232.39  
KY 610.070  
LA CJP.ART.69  
MD 3.812  
MA 18.119.65  
MN 260.155  
MS 43.21.203  
MO 211.171  
NV 5.62.193  
ND 27.20.24  
OH 2151.35  
OK 10.51.1111  
PA 42.6336  
RI 14.1.30  
SC 20.7.755  
SD 26.8.32  
TX FC.3.54.08  
UT 78.3a.33  
VT 33.651  
VA 16.1.302  
WV 49.5.1  
WI 48.299  
WY 14.6.224

## MEMBERS OF THE PRESS

DC 16.2316  
IL 37.801.5  
SD 26.8.32  
UT 78.3a.33 (felony only)

## VICTIM

IL 37.801.5  
PA 42.6336  
WI 48.299

## FAMILY MEMBERS

KY 610.070  
LA CJP.ART.69

## PROBATION WORKER

KY 610.070

AL Alabama 12.15.65  
Conduct of hearings and disposition of cases generally

(a) Hearings under this chapter shall be conducted by the court without a jury and separate from other proceedings. The general public shall be excluded from delinquency, in need of supervision or dependency hearings and only the parties, their counsel, witnesses and other persons requested by a party shall be admitted. Such other persons as the court finds to have a proper interest in the case or in the work of the court may be admitted by the court on condition that such persons refrain from divulging any information which would identify the child or family involved. If the court finds that it is in the best interest of the child, his presence may be temporarily excluded from the hearings, except while allegations of delinquency or in need of supervision are being heard.

AK Alaska 47.10.070  
Hearings

The public shall be excluded from the hearing, but the court, in its discretion, may permit individuals to attend a hearing, if their attendance is compatible with the best interests of the minor. Nothing in this section may be applied in such a way as to deny a child's rights to a public trial and to a trial by jury.

AR Arkansas 9.27.325  
Hearings -- generally

(i) All hearings may be closed within the discretion of the court, except, in delinquency cases the juvenile shall have the right to an open hearing.

CA California WI.346  
Closed hearing

Unless requested by a parent or guardian and consented to or requested by the minor concerning whom the petition has been filed, the public shall not be admitted to a juvenile court hearing. The judge or referee may nevertheless admit such persons as he deems to have a direct and legitimate interest in the particular case or the work of the court.

CA California WI.676  
Closed hearing

(a) Unless requested by the minor concerning whom the petition has been filed and any parent or guardian present, the public shall not be admitted to a juvenile court hearing. The judge or referee may nevertheless admit those persons he or she deems to have a direct and legitimate interest in the particular case or the work of the court. However, except as provided in

The general public shall not be excluded from hearings held under this article unless the court determines that it is in the best interest of the juvenile or of the community to exclude the general public, and, in such event, the court shall admit only such persons as have an interest in the case or work of the court, including persons whom the district attorney, the juvenile, or his parents or guardian wish to be present.

CT Connecticut 46b.122  
Transfer of matters from juvenile court,  
separate facilities

Any judge hearing a juvenile matter shall, during such hearing, exclude from the room in which such hearing is held any person whose presence is, in the court's opinion, not necessary.

DE Delaware 10.972  
Proceedings; privacy, informality

(a) All proceedings before the Court and all records of such proceedings may be private except to the extent that the Court may consider publication in the public interest except as provided below in subsection (b); provided, however, that proceedings in a crime classified as a felony shall be open to the public.

DC District of Columbia 16.2316  
Conduct of hearings; evidence

(e) All hearings and proceedings under this subchapter shall be recorded by appropriate means. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings arising under this subchapter. Only persons necessary to the proceedings shall be admitted, but the Division may, pursuant to rule of the Superior Court, admit such other persons (including members of the press) as have a proper interest in the case or the work of the court on condition that they refrain from divulging information identifying the child or members of his family involved in the proceedings.

FL Florida 39.052  
Hearings

(1) ADJUDICATORY HEARING.

(c) All hearings, except as hereinafter provided, shall be open to the public; and no person shall be excluded therefrom except on special order of the court. The court, in its discretion, may close any hearing to the public when the public interest and the welfare of the child are best served by so doing.

GA Georgia 15.11.28  
Conduct of hearings generally; recordation; exclusion from

IA Iowa 232.39  
Exclusion of public from hearings

At any time during the proceedings, the court, on the motion of any of the parties or upon the court's own motion, may exclude the public from hearings under this division if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those person who have direct interest in the case or in the work of the court.

KS Kansas 38.1652  
Confidentiality of proceedings

- (a) If the respondent was 16 or more years of age at the time of the alleged offense, the hearing shall be open to the public.
- (b) If the respondent was under 16 years of age at the time of the alleged offense, the court may exclude all persons except the respondent, the respondent's parents, attorneys for interested parties, officers of the court and the witness testifying. Upon agreement of all interested parties, the court shall allow other persons to attend the hearing unless the court finds the presence of the persons would be disruptive to the proceedings.

KY Kentucky 610.070  
Hearings

(3) The general public shall be excluded and only the immediate families or guardians of the parties before the court, witnesses necessary for the prosecution and defense of the case, the probation worker with direct interest in the case, such persons admitted as the judge shall find have a direct interest in the case or in the work of the court, and such other persons as agreed to by the child and his attorney may be admitted to the hearing. Witnesses shall be admitted to the hearing only for the duration of their testimony.

LA Louisiana CJP.ART.14  
Juvenile jurisdiction of courts

E. Except as provided in Article 69 or otherwise provided by law, juvenile proceedings shall not be public.

LA Louisiana CJP.ART.69  
Presence at adjudication hearing; exclusion of witnesses

A. The child, his parents, counsel, the district attorney, authorized officers of the court, and witnesses called by the parties may be present at an adjudication hearing.

B. The court may admit any other person who has a proper interest in the proceedings or the work of the court.

the desire of the victim to have the testimony taken in a room closed to the public.

MN Minnesota           260.155  
Hearing

Subdivision 1. General. The court shall exclude the general public from these hearings and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court; except that, the court shall open the hearings to the public in delinquency proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the offense.

MS Mississippi       43.21.203  
Conduct of proceedings

(6) The general public shall be excluded from the hearing, and only those persons shall be admitted who are found by the youth court to have a direct interest in the cause or work of the youth court. Any person found by the youth court to have a direct interest in the cause shall have the right to appear and be represented by legal counsel.

MO Missouri           211.171  
Hearing procedure

5. The general public shall be excluded and only such persons admitted as have a direct interest in the case or in the work of the court.

MT Montana           41.5.521  
Adjudicatory hearing

(5) In a hearing on a petition under this section, the general public may not be excluded when the hearing is held on a contested offense to which publicity must be allowed under subsection (2) of 41.5.601.

NV Nevada           5.62.193  
Proceedings not criminal in nature; procedure

The general public must be excluded and only those persons having a direct interest in the case may be admitted, as ordered by the judge, or, in case of a reference, as ordered by the referee.

NH New Hampshire   169.B.34  
Court Sessions

The adjudicatory hearing shall be held in the district at such time and place as the chief district judge shall designate. The judge may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted.

NC North Carolina 7A.640.85  
Dispositional hearing

The judge may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted.

ND North Dakota 27.20.24  
Conduct of hearings

5. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings under this chapter. Only the parties, their counsel, witnesses, and other persons accompanying a party for his assistance, and any other persons as the court finds have a proper interest in the proceedings or in the work of the court may be admitted by the court. The court may temporarily exclude the child from the hearing except while allegations of his delinquency or unruly conduct are being heard.

OH Ohio 2151.35  
Hearing procedure; findings; record

In the hearing of any case the general public may be excluded and only such persons admitted as have a direct interest in the case.

OK Oklahoma 10.51.1111  
Conduct of hearings

The hearings shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted.

PA Pennsylvania 42.6336  
Conduct of hearings

(d) Proceeding in camera. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings under this chapter. Only the parties, their counsel, witnesses, the victim and counsel for the victim, other persons accompanying a party or a victim for his or her assistance, and any other person as the court finds have a proper interest in the proceeding or in the work of the court may be admitted by the court. The court may temporarily exclude the child from the hearing except while allegations of his delinquency

MCLAUGHLIN YOUTH CENTER

RECIDIVISM STUDY

Tracking Residents Released  
7/1/86 through 6/30/88

By:

Barbara Henjum  
Denali Unit Leader  
McLaughlin Youth Center

Prepared for:

George A. Buhite  
Superintendent  
McLaughlin Youth Center

September 1991

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MCLAUGHLIN YOUTH CENTER  
RECIDIVISM STUDY

This report updates the research to track the recidivism rates of residents being released from the McLaughlin Youth Center treatment programs. Barbara Henjum, Denali Unit Leader of McLaughlin Youth Center, utilized the same format for this update that she developed for her Masters Thesis during 1989. Including the data from her original study, she now has statistics for four groups of residents. These residents were released over a two year time span from July 1, 1986 through June 30, 1988 and includes 182 residents. Residents released during six month time periods are grouped together for the purpose of the study to provide information that may show patterns in recidivism over time. In addition, the groups are differentiated by the region of the state that they were from at the time of institutionalization. The statistics are also additionally broken down by gender.

Ms. Henjum utilized the criteria developed in her original study to define residents who were successful versus recidivists. Released residents were termed successes if they: 1) Had no new delinquent adjudications or criminal convictions, and 2) Had no more than one status offense or probation violation. Released residents were classed as recidivists if they: 1) Obtained a new juvenile adjudication or criminal conviction, 2) Obtained more than one status offense or probation violation, or 3) The released resident was reinstitutionalized. Residents were tracked for a 24 month time period following their release date. Juvenile records, in addition to adult records, were obtained to provide the information on the residents criminal history following release. The criteria was developed after a review of available research and consultations with the American Correctional Association.

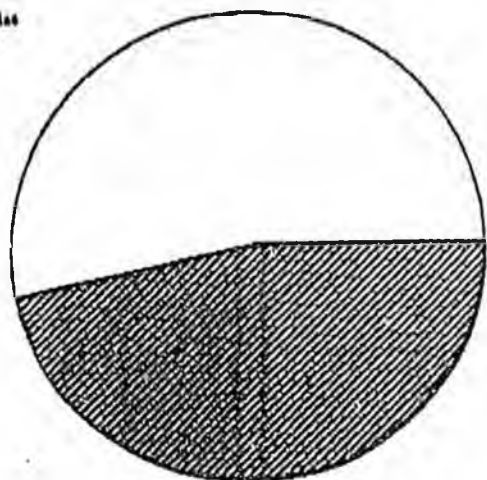
It should be noted that the recidivism criteria used for these statistics is much more stringent than is usually utilized by other institutions. A main emphasis of the original research was to develop a criteria that could be viewed as highly legitimate and could provide a very reliable view of the results of the treatment process. Comparing recidivism statistics is difficult at best because of the numerous ways to define recidivism, the variance in length of time released residents are tracked, the data-gathering methods utilized and the differences in state juvenile justice practices and reporting standards. As a comparison, the National Council on Crime and Delinquency (NCCD) has recently published an evaluation of the Massachusetts Department of Youth Services. (See attached). The recidivism statistics they utilized were based on a twelve month time period, compared to the 24 months used in our research. In addition, the time period begins when the youth enters the community based treatment program. Therefore, if they are in a treatment program for eight of the twelve months they are only tracked for four additional months after completion of the program. Even with the more lengthy time frame for tracking residents released from the MYC programs, our recidivism statistics compare favorably with the statistics of the Massachusetts programs.

Looking over the statistics for the four groups of MYC residents that were tracked for this study, certain trends have begun to develop. The overall recidivism rate for McLaughlin Youth Center treatment programs has remained consistently (about 50%, between 48% to 55%), see Figures 1 through 5.

# Recidivism Study

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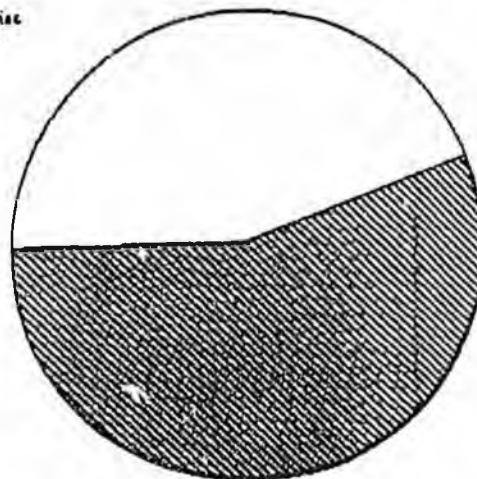
Recidivist  
52%



Successful  
48%

Figure 1. For residents released July 1, 1986 to December 31, 1986, percentages meeting criterion for successful release and recidivist.

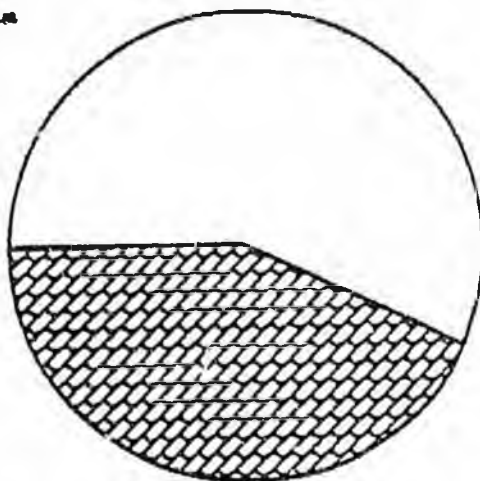
Recidivist  
48%



Successful  
52%

Figure 2. For residents released January 1, 1987 to June 30, 1987, percentages meeting criterion for successful release and recidivist.

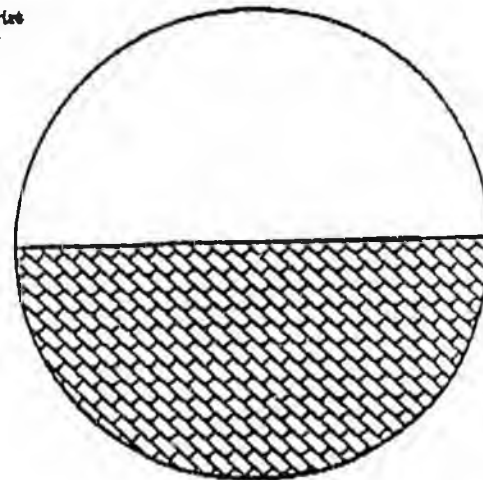
Recidivist  
55%



Successful  
45%

Figure 3. For residents released July 1, 1987 to December 30, 1987, percentages meeting criterion for successful release and recidivist.

Recidivist  
50%

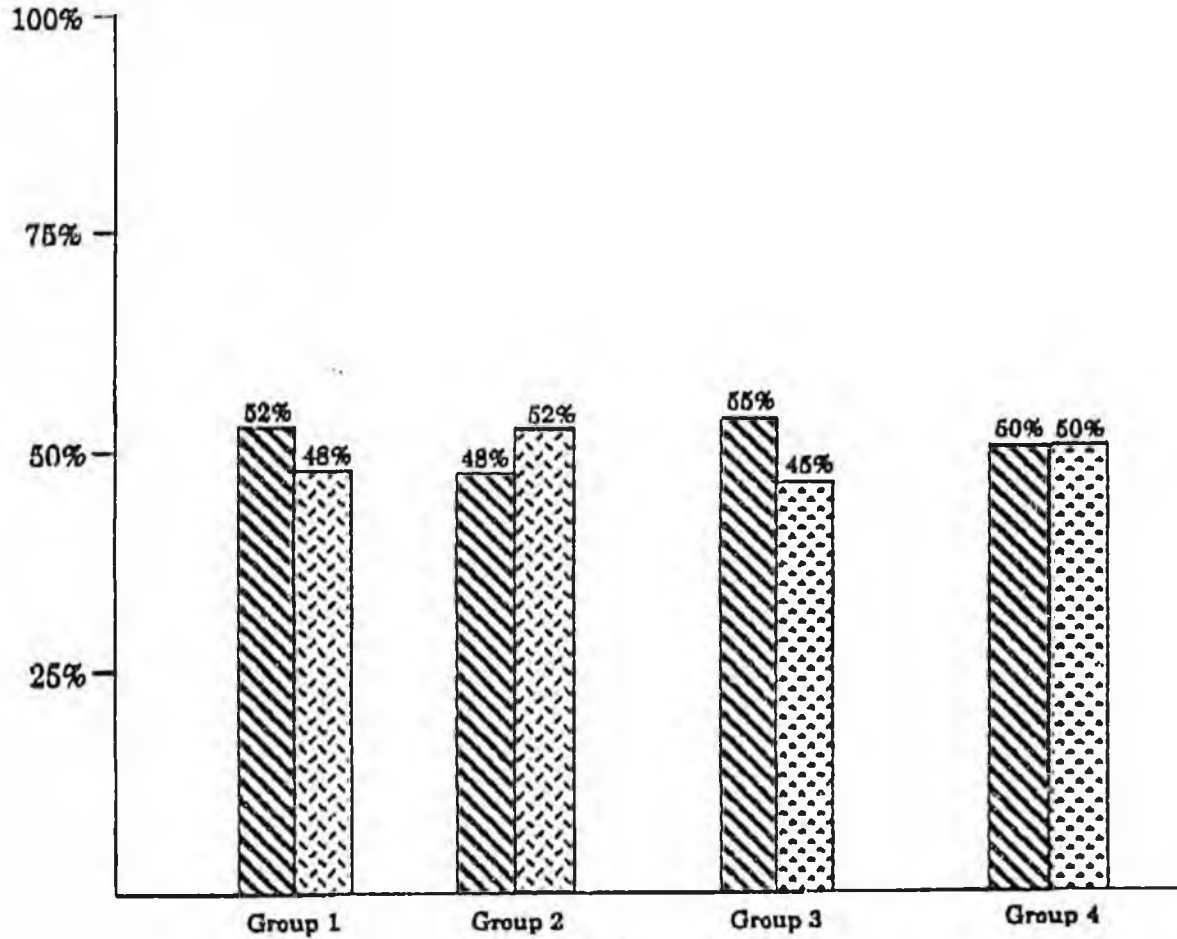


Successful  
50%

Figure 4. For residents released January 1, 1988 to June 30, 1988, percentages meeting criterion for successful release and recidivist.

**Recidivism Study**

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



**Group 1 - Residents released 7/1/86 -12/31/86**

**Group 2 - Residents released 1/1/87 -6/30/87**

**Group 3 - Residents released 7/1/87 - 12/31/87**

**Group 4 - Residents released 1/1/88 - 6/30/88**

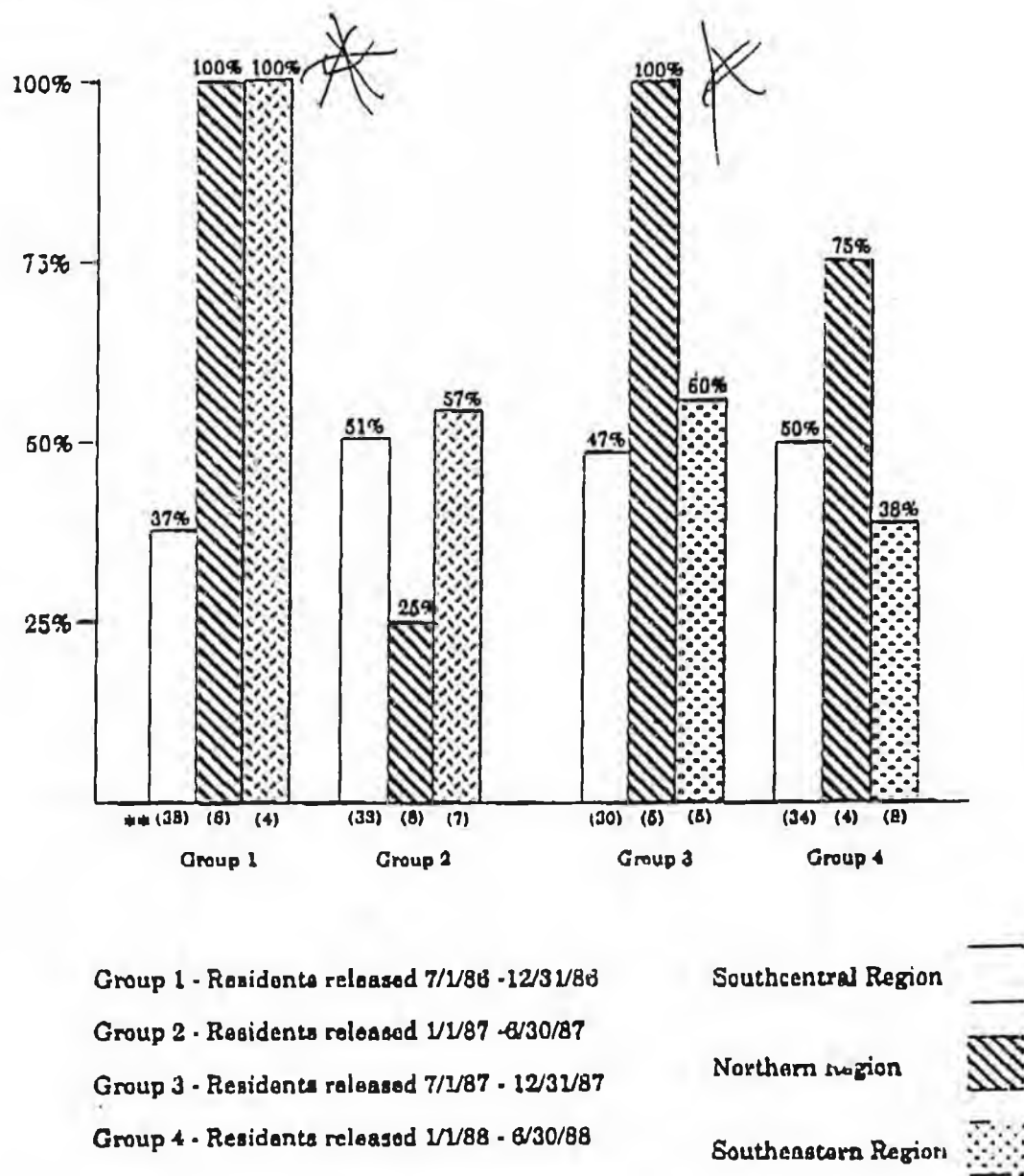
**Recidivist**   
**Successful** 

**Figure 5** Recidivism percentages of residents divided by group.

**Recidivism Study**

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Additionally, the data supports that Southcentral residents, as a group, are more successful after their release. See Figure 6.



**Figure 6** Recidivism percentages of residents divided by region and group.

## Recidivism Study

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There may be several reasons for this trend. Residents from the Southcentral Region are in or at least closer to their home communities during their treatment. Families have more opportunity to be involved in their child's treatment. Transitioning from the institution can be more complete by involving residents in more community based activities and support services prior to release. After release, residents can utilize the support of MYC counselors. Another factor may be the type of resident we receive from other Regions. Since the Northern Region has three treatment facilities, they only send their most difficult residents to MYC and therefore it could be predicted that they would do less well after release.

Another pattern that has been very consistent is the higher success rate of females released from the institution than the males, see Figure 7.

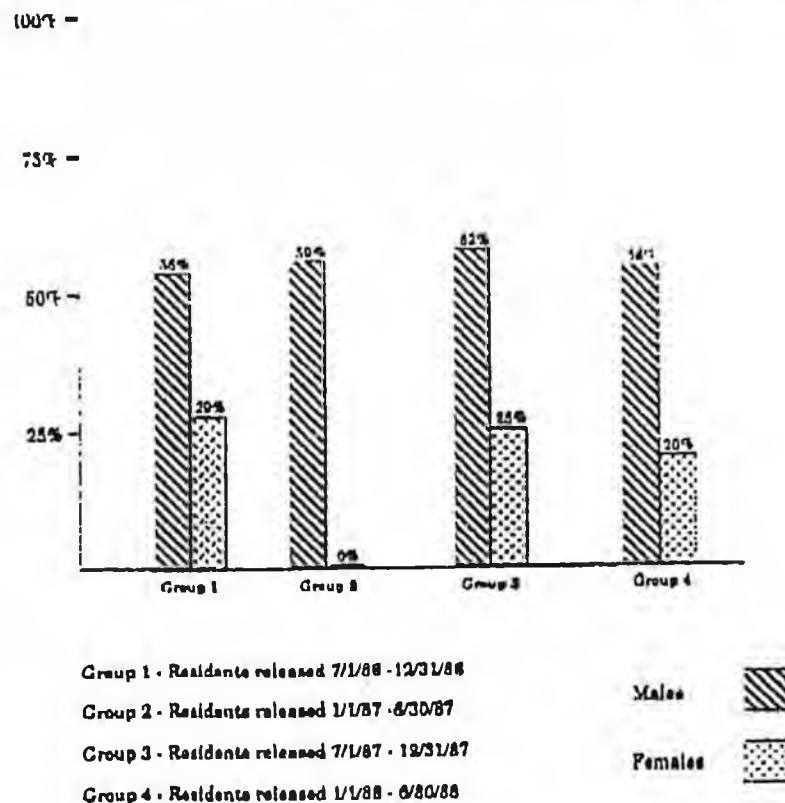


Figure 7 Recidivism percentages of residents divided by gender and group.

## Recidivism Study

Page -9-

The recidivism rates for the four groups of female residents range from 0% to 20%, with an average of 18.5%. There may be several reasons why the female residents as a group are so consistently more successful than the male residents. All female residents are placed in Cottage Two and therefore a look at the successful programming in their Unit may explain part of the success. Also, girls tend to be institutionalized because they are habitual petty delinquents who cause danger to themselves versus the boys who tend to be more serious offenders.

Although the four groups provide some credibility to the trends that are emerging, the continuation of the tracking system will be important to look for changes or other patterns that may occur. In addition, the data could be utilized to look at correlations between recidivism and length of stay at the institution; recidivism and family involvement during treatment; recidivism and aftercare involvement.

As of January 1990, all Youth Corrections data is entered into the PROBER data base. When Ms. Henjum completes the recidivism statistics on residents released after 1990, she will be able to access their post-release delinquency information by herself, instead of the current need of making numerous phone calls to probation offices around the state, having probation officers find the information she needs and then having them call her back. The Department of Corrections continues to be very helpful and cooperative when Ms. Henjum utilizes their computer system to access information on released residents adult records.

/vlh

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF FAMILY & YOUTH SERVICES  
McLAUGHLIN YOUTH CENTER

McLAUGHLIN YOUTH CENTER  
2600 Providence Avenue  
Anchorage, AK 99508  
(907) 561-1433

## MEMORANDUM

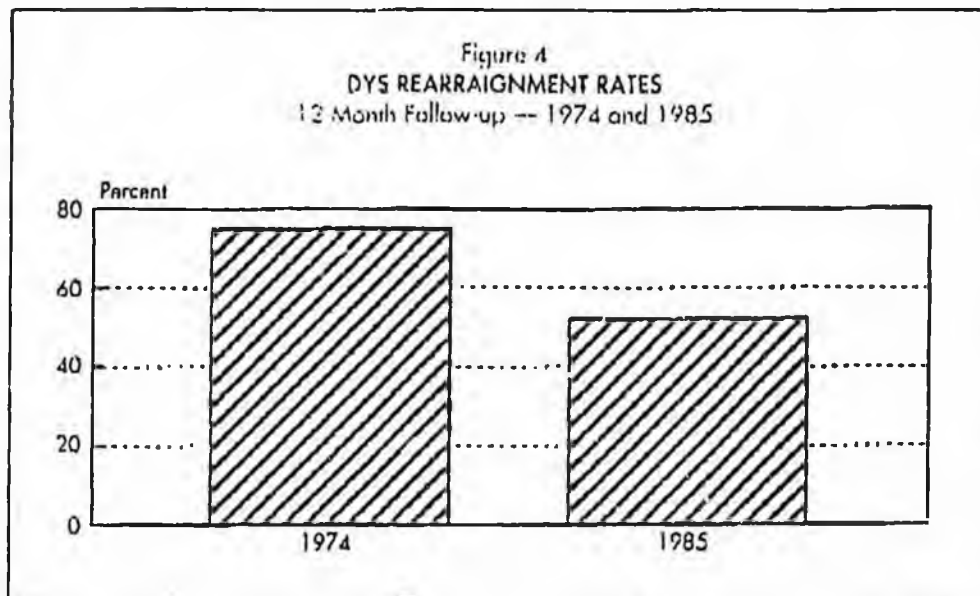
DATE: January 22, 1993 File #:  
TO: George A. Buhite  
Superintendent  
McLaughlin Youth Center  
FROM: Barbara Henjum  
Grüening Unit Leader  
McLaughlin Youth Center  
SUBJECT: Status of Recidivism Study

I am currently working on updating the McLaughlin Youth Center Recidivism Study by compiling data on four more groups of released residents. The groups include residents released between 7/1/88 to 6/30/90. A total of 149 residents are in these four groups. I have completed the 24 month review of adult criminal records for these groups and have yet to obtain the juvenile records and then compile the results. Attached is the data and discussion of the first four groups of released residents who have been studied.

I hope to have the results of the next four groups added to this study by the end of February.

BJ/tms

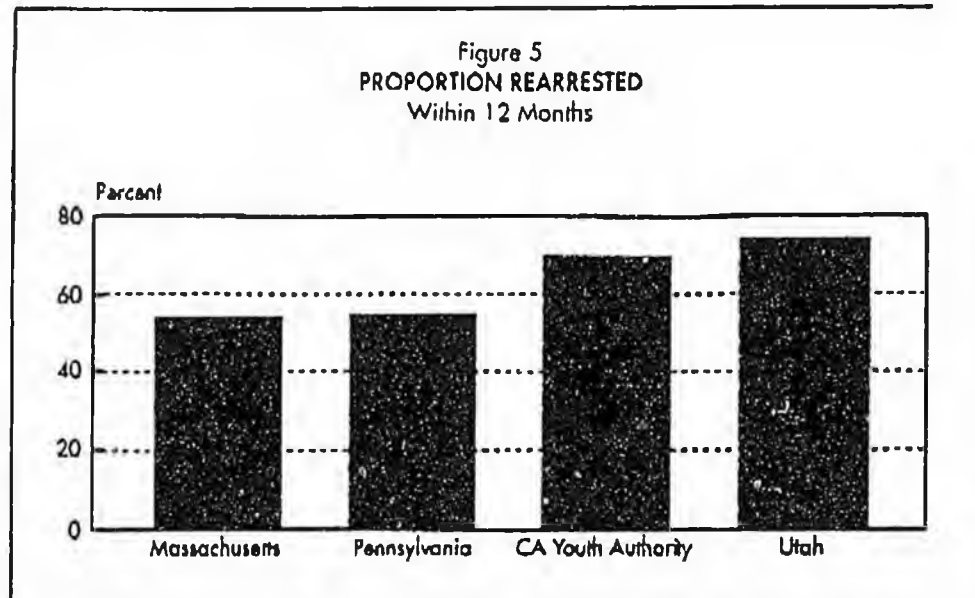




#### HOW DO DYS RECIDIVISM RATES COMPARE WITH OTHER STATES?

Recidivism data are not generally available from most jurisdictions. Many juvenile corrections agencies do not collect these data. Other states use an assortment of measures such as the proportion of released youth who are rearrested, reconvicted or reincarcerated within certain time periods. No other states routinely produce data on the frequency and severity of offending before and after correctional interventions as presented in this study of DYS.

Comparing recidivism rates between jurisdictions poses formidable analytic problems due to: (1) differences in the types of youth handled, (2) differences in state juvenile justice practices, and (3) differences in juvenile justice reporting standards, as well as a host of other environmental factors (e.g., urbanization, drug use, etc.). Nonetheless, NCCD reviewed data from eight separate statewide studies of youth released from state correctional systems which used recidivism measures that could be compared with the Massachusetts data. Literature searches were performed to identify recent recidivism studies of juvenile corrections systems. Studies identified through these searches were carefully examined to determine the validity of research methods employed. In addition, NCCD contacted a number of states to gather unpublished data on recidivism. In a sense, we performed a "meta-analysis" — looking for the accumulated weight of the evidence, based on a number of studies from various jurisdictions conducted by independent re-



searchers. While interstate contrasts are not entirely valid, the cumulative results observed were remarkably consistent. However, the findings of this analysis should be interpreted cautiously because of the many methodological constraints listed above.

Figures 5 through 7 present data on three measures of recidivism (12 month follow-ups on rearrest and reconviction, and 36 months for reincarceration) from Massachusetts, Pennsylvania, Utah, Florida, Texas, Illinois, Wisconsin and California (See Appendix A - Data Sources for Comparative State Analysis). Both state and county juvenile correctional systems' recidivism rates were used for California. On all three measures, DYS youth had equivalent, and in some instances, lower recidivism rates than youth from other states. While some of these jurisdictions operate programs quite similar to Massachusetts (notably Pennsylvania and Utah), the others rely far more on traditional large-scale training schools.<sup>15</sup> At a minimum, these data lend further evidence that the limited use of secure confinement in Massachusetts as compared to other state juvenile correctional systems does not worsen public safety.

NCCD also was able to conduct a more detailed comparison between Massachusetts and California. In an earlier project conducted with the California Youth Authority (CYA), NCCD collected recidivism data on over 2,200 youth released

Figure 6  
PROPORTION RECONVICTED  
Within 12 Months

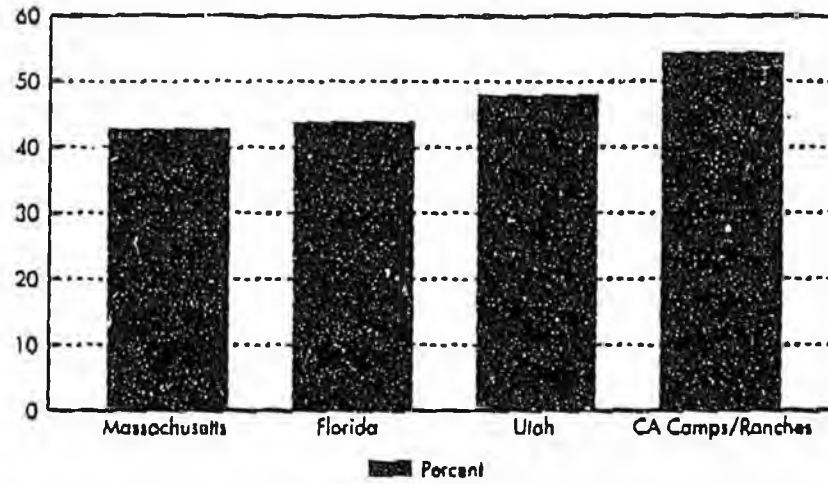
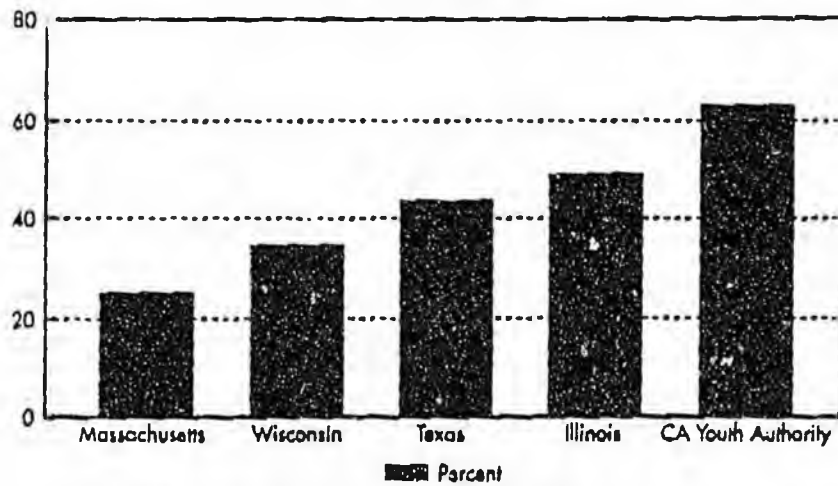


Figure 7  
PROPORTION REINCARCERATED\*  
Within 36 Months



\* Covers incarceration in state adult or juvenile facilities.  
\*\* Juvenile commitments only, 24 month follow-up.

14 months confinement in large training schools compared to five months for DYS youth. Whereas the 12 month rearrest rate for DYS was 51 percent, the comparable recidivism rate for the CYA group was 70 percent. However, the two groups differed in that the CYA group contained a higher proportion of youth who were male, black and Hispanic, committed for violent offenses, and had more extensive prior records than their DYS counterparts. While these variables are often associated with higher recidivism rates, NCCD used statistical techniques to adjust the DYS recidivism data to reflect the differences among the Massachusetts and California samples based on the discriminating variables.

First, we used the 1984-1985 sample of 819 DYS youth which contained a disproportionate number of youth committed for violent offenses, minority youth, males, and more extensive prior records than the 1985 release sample. The DYS sample was statistically weighted on each variable to make it similar to the CYA sample characteristics. The recidivism rate of the weighted DYS group was then recalculated. This produced an adjusted 12-month rearraignment rate for the DYS youth of 62 percent, which was still below the CYA rearrest rate of 70 percent.

The statistical procedures used in comparing data from two states are not equivalent to random assignment of youth into two correctional systems. Dissimilarities in justice system practices, data recording and other historical and situational factors could influence the findings. Still, the comparison between DYS and CYA is consistent with other available data — DYS youth perform comparably and, on some measures better, than those processed through more conventional correctional programs.

### WHAT ARE THE COSTS OF THE MASSACHUSETTS SYSTEM COMPARED TO OTHER JUVENILE CORRECTIONAL SYSTEMS?

Perhaps the most pressing question for other states concerns the relative costs and benefits of the DYS approach. In other words, what would happen in terms of crime and costs if other states were to adopt such a model? We already have shown that individual recidivism rates for DYS are equal or superior to those reported by states which rely on a greater use of secure confinement. But what are the comparative costs of operating a community-based system of juvenile corrections?

While there are no national figures on the average costs of training schools, a variety of states have reported spending between \$100-125 per day to hold youth in traditional large juvenile correctional facilities.<sup>17</sup> In Massachusetts, DYS operates a range of dispositional options that include physically secure treatment programs costing \$170 per day, staff secure placements at \$127 per day, community-based group care averaging \$95 per day, non-residential outreach and tracking services, which cost \$23 per day, and day treatment programs at \$50 per day.

the Utah youth committed far fewer and less serious crimes after youth corrections interventions than before.<sup>21</sup> The Utah study also provided strong evidence that the new community-based approach saved considerable public funds when compared with past correctional practices.

Other states have emulated concepts and practices from the Massachusetts system in an effort to deinstitutionalize and develop new community-based programs. States as diverse as Texas, Florida, Oklahoma, Oregon, Missouri, Louisiana and Colorado have moved in this new direction. Most recently, the Maryland Juvenile Services Agency closed nearly 500 training school beds and placed youth in small community programs. Other states, such as Georgia, South Carolina, Ohio and Delaware have announced their policy goal to reduce the number of institutional beds.

These diverse jurisdictions often were motivated to reform juvenile correctional practices because of threatened or actual litigation. Besides the lawsuits, progressive correctional practitioners in these states provided leadership to promote needed legislative and administrative changes. The reform states experienced no surge in juvenile crime, and only modest political battles occurred as a result of the training school closures.

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## CONCLUSIONS

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In the early 1970s, Massachusetts took a truly daring step in juvenile corrections. It completely abandoned the traditional training school as its primary response to serious youth crime. Over the past 15 years, the Massachusetts DYS has evolved into a sophisticated network of small secure programs for violent youth and a broad range of community-based programs for the majority of committed youth. The NCCD study of the DYS system found the following:

- The reformed DYS system did not create an excessive crime problem. Massachusetts continues to have one of the lowest rates of juvenile crime in the nation. Juvenile arraignments did not suddenly escalate after the training school closures. Juvenile crime trends in Massachusetts have paralleled national trends.
- NCCD found that 12-month recidivism rates for DYS youth released in 1985 were lower than those reported in an earlier Harvard study of youth who were released from Massachusetts training schools. The 1985 recidivism figures were substantially better than those reported for the earlier DYS community-based programs. This suggests that DYS has

# Pair of late-night scuffles lead to arrests at eatery

By PAMELA DOTO  
Daily News reporter

Three young men were arrested Sunday morning after they attacked two men who were holding hands as they walked out of a Midtown restaurant, police said.

The assault occurred shortly after 2 a.m. at the Village Inn on Northern Lights Boulevard. It was the first of two separate fights that morning which took several police to quell. The restaurant, a favorite eatery after the bars close, was damaged in one incident. Police said the attackers, who were driving a blue Honda Prelude, are also suspected of smashing several car windows late Saturday in Fairview and the window of the Burger King on Northern Lights Boulevard with baseball bats.

"They took exception to their order and when they were told they could not receive a free sandwich, one of them leaped out and started smashing (Burger King's) tinted lobby window," Sgt. Marilyn Bailey said.

Arrested later at the Village Inn were Dwight W. Wilson Jr., Corey Gene Vanduren, both 18, and a 16-year-old boy who was later released to his parents, police said.

The men were charged with third-degree assault and criminal mischief. They were taken to Cook Inlet Pre-Trial Facility, where their bail was set at \$10,000.

Police said the men drove through the parking lot of the Village Inn and spotted the men leaving the

Please see Page B-3, **FIGHTS**

## **FIGHTS:** Restaurant damaged

Continued from Page B-1

restaurant hand in hand.

They shouted at the men, police said.

The men, whose names police would not release, shouted something back. Then the group in the Honda jumped from the car with baseball bats and metal pipes.

At that point, the couple ran to their vehicle and the youths followed them, smashing out the window of the men's pickup truck with a baseball bat.

While police were called, the men in the truck blocked their assailants' Honda so they could not flee before officers arrived. But instead of just pulling in front of the car, they smashed into it, police said.

"By the time all the police got there, it was time to sweep up the glass and take everyone to jail," Bailey said.

No one was seriously injured and the investigation is continuing.

Les Baird, a member of Equal, a gay and lesbian task force in Anchorage, said Sunday wasn't the

first time someone has been attacked here because of sexual orientation.

Baird knows a gay man who was beaten up behind the Blue Moon bar a year ago and a lesbian who had her car window smashed out. Baird himself has received death threats for his involvement in the gay community, he said.

The problems will get worse if laws aren't strengthened to protect gays, he said.

"We're lower class citizens," he said. "The fundamentalists are saying we're sinners and God says it's OK to punish us for our sins."

About three hours after police arrested the men involved in the first incident at the restaurant, another fight broke out after a group of men confronted another eating breakfast. When police arrived, they found \$400 in damage to the restaurant and cited Anchorage resident

Arthur Clark with malicious destruction and disorderly conduct. A 14-year-old boy involved in the brawl was released to the custody of his parents.

at Of Court Door In Area Ev

# Insults grew to violence against gays

## Men assaulted in restaurant parking lot

By PAMELA DOTO  
Daily News reporter

Henry Miller and James McKay don't usually worry about holding hands in public, but on Sunday that gesture of love sparked violence.

Police say three teen-agers attacked the couple after calling them "queers and faggots" in the parking lot of the Village Inn on Northern Lights Boulevard.

This time, the men said they did not want to back down.

"Nobody is going to tell me I can't hold Henry's hand," McKay said in an interview Monday. "That's my right."

Following the attack, the three teens were arrested for assaulting Miller and McKay with a pipe and

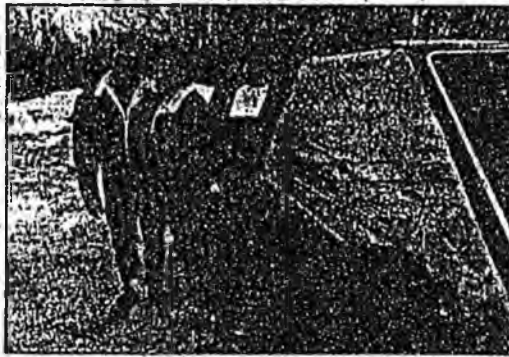
baseball bats. The couple's truck received about \$5,000 in damage, and they had to have glass picked out of their ears at an emergency room.

Now they are angry and say they don't want to live in Anchorage anymore. In the meantime, they have hired an attorney to make sure their attackers pay for the assault.

"We want to send a message to people that you can't attack people who are different from you and get away with it," Miller said.

He took pictures of his battered red Toyota and plans to send them to the Anchorage As-

Please see Back Page, ASSAULT



FRAN DURNER / Anchorage Daily News

James McKay and Henry Miller were attacked after leaving a restaurant early Sunday morning. The windows of their pickup and camper were smashed.

## ASSAULT: Teen-agers attack homosexual couple

Continued from Page A-1

sembly members who recently voted against a gay-rights ordinance.

"Here is some evidence of discrimination," Miller said, placing the pictures on a table in the apartment he shares with McKay, two dogs and a cat.

The men have been insulted before, they said, but Sunday was the first time it turned violent. They say they feel the mood in Anchorage is becoming more hostile for gays. In November, they said, they were confronted by a group of men downtown who yelled out something derogatory about their sexual orientation and drove away.

They blame people such as the Rev. Jerry Prevo, who opposes the gay-rights ordinance, for stirring up hatred of homosexuals in Anchorage.

But Prevo says gays have brought the problem on themselves by asking for special treatment.

"I do not condone violence

against (gays)," Prevo said Monday night. "There are of course adequate laws right now that will punish those who attack them. Special homosexual rights would not stop this action. If anything, it would promote it."

Prevo said he wondered if the men did anything to provoke the attack, but McKay and Miller said they were only holding hands.

The men moved to Anchorage from New Mexico in July. Miller is a 28-year-old sales representative and McKay, 32, works in construction. "We're just a quiet couple," Miller said.

Early Sunday morning, after the two had finished a meal at the Village Inn and were walking toward their truck, a man in a Honda Prelude shouted at them and threatened them.

Miller said he shouted "F---k you" back at them before one of the teens jumped from his car with a metal pipe. Another had a baseball bat.

"I said, 'Drop your bats

and we'll take you on,'" McKay said. But the three held on to their weapons, chased McKay and Miller to their truck and started smashing the vehicle's windows.

Miller tried to drive the truck out of the lot, but its wheels just spun on the ice as the attackers pummeled away with their bats and pipe. McKay ducked to avoid being hit with the bat and shattering glass. Finally, Miller got the truck rolling.

People in the restaurant swarmed to the windows to see what was happening. Miller and McKay tried to block the men's Prelude so they would not be able to escape before police arrived.

When officers got there, they arrested Dwight W. Wilson Jr. and Corey Gene Vanduren, both 18. A 16-year-old boy with them was released to the custody of his parents. The two 18-year-olds were charged with assault and criminal mischief. They were still at Cook Inlet

Pre-Trial Facility on Monday night.

"They are cowards," Miller said. "They have to (beat people up) with numbers and weapons."

Deputy Police Chief Duane Udland said his department has not received a lot of complaints about such assaults in Anchorage, but officers take them seriously.

"This incident that happened the other night is pretty much a classic hate crime," Udland said. "Any crimes like these will be a priority with the police department."

Anchorage police began keeping track of hate crimes four months ago. Udland said 10 officers have received special training on how to spot and deal with such crimes. He did not know Monday if anything more would be done with McKay and Miller's case.

The men say they are ready for a long fight.

"We're tired of the pacifist way. It's not working that way," Miller said. "It's time for us to fight back."

# Auto thefts increasing, becoming more violent

## A NORTHWEST

our faces when we bring them in here," said Lana Pegg, former auto-theft detective in the King County's Federal Way Precinct.

Her sergeant, Bruce Kalin, added that many criminals are switching from burglary to car theft because it's less stressful.

"It's so easy you got 8-year-olds doing it," said Bobby Cool, 24, whose own career in car theft began more than a decade ago.

A teen-age boy leans down on his right elbow and peers under the steering wheel of the car and pulls out a few tools. Within seconds, the engine purrs.

Another youth captures the moment with his camera; later, the first boy proudly displays in his school locker a photo of himself stealing a car.

The 15-year-old Seattle area boy, who has about a dozen convictions for auto theft, shares his secrets with other boys who want to learn his craft.

Like a chef who shares secret recipes, the proficient auto thief enjoys an exalted status among his peers.

And police say more and more youths are learning this new trade.

"It's the skill that everybody wants. And if you're good, you're put up on a pedestal," said Pegg.

While many of the thieves are in gangs, an increasing number are just students looking to make a quick buck, she said.

And they're willing to pay for the knowledge.

Recently, Pegg said, another 15-year-old boy in Federal Way has begun charging youngsters \$50 to show them how to break into a car in a parking lot and hot-wire it.

And for an added bonus, the student gets to keep the car.

"You pick out the car you want, and drive it away," Pegg said.

Many thieves steal cars for chop shops, illegal operations in which vehicles are stripped and their parts sold.

In 1990, Seattle police shut down a chop shop near Echo Lake that was doing \$300,000 in business and had a ring of 18 teen-agers assigned to steal specific types of cars.

If you are the victim of only one crime in your lifetime, it likely will involve your car. Either all, or a piece of it will be stolen.

Nothing's more aggravating than dashing out the

door only to find a grease spot where your Corolla (one of the most popular cars to steal) used to be. Victims can't get their children to child care, they lose time on the job, and when and if they do get their car back, chances are it won't be in the same shape.

Theft generally accelerates during cold weather because many people leave their cars with the engine running to warm them up, easy pickings for thieves. Also, in bad weather, adds VanRooy, students on their lunch break might prefer to ride, rather than walk to a fast-food restaurant.

Bellevue police auto-theft detective Jerry Litzau said most cars are recovered, but rarely return intact: a ripped out ignition switch, a missing stereo, or worst of all, a stripped carcass.

Police say they are now so overwhelmed by car theft that they only have time to investigate the cases in which a suspect is in custody. Each case takes usually 16 to 24 hours.

Even when your car turns up with its wheels and stereo missing, police don't have the resources to track the culprit.

"To tell you the truth, chances are nothing's going to be done," said Seattle police Det. Dennis Hossfeld. "We don't have time to go out and look at the car."

If most thefts cause a major aggravation, some can change lives irrevocably.

On Dec. 4, newlyweds Richard and Kimberly Bobb of Puyallup were asleep when Richard heard a noise downstairs in his kitchen and went to investigate. He was shot to death by car thieves who had entered his home using a garage door opener found in his wife's Mitsubishi.

"This person has taken away my dreams, my husband, my home," said Kimberly Bobb, 26.

The killer or killers remain at large. The case has stumped police, who say it doesn't surprise them that the thieves were armed. Nowadays, they see that often.

Ironically, many of the guns come from stolen cars. Pierce County Sheriff's Department spokesman Curt Benson said these days, adults are just as likely to keep a gun in a car as at home.

In November, because of the number of students carrying weapons, Pierce County started a gun hot line for local schools. Many of the

guns recovered as a result of the hot line had been reported stolen from vehicles.

Those who steal cars are increasingly involved in other crimes. Thieves steal cars for drive-by shootings, robberies or drug deliveries.

When car thefts soared in Washington in 1987, it was believed to be the result of an influx of California gangs who not only stole cars themselves to help finance their drug trade, but also showed local teens the tricks of the trade.

Car theft also turns violent when an armed thief confronts a driver. There were over 20 car-jackings in Seattle in 1992, and several in the Federal Way area in the past few years.

Car crashes are another factor. In all, 15 percent of cars stolen wind up in accidents.

Heather Steven, 23, was on her way home from the library last May when 15-year-old Amandeep Singh crashed into her car near downtown Kent. Singh had stolen his uncle's BMW and was eluding police at 90 mph. Singh had a lengthy criminal history, including armed robbery.

Singh escaped from a juvenile detention facility in November and was never found. Kent police call Singh dangerous.

Last winter, a 16-year-old Snohomish County boy stole his parents' car. When police chased him, he lost control and the vehicle flipped, he was thrown out and killed.

Police are particularly frustrated; they say they arrest the same people over and over.

In Bellevue, one of those people is Borin So, 18.

His former foster mother, Phallice Vanderpol, said she was extremely frustrated because So and her teen-age son — whom So taught to steal cars — figured out juveniles rarely had to pay for their actions.

"The police would pick them up, and then the courts would let them go," she sighed.

The youth served some time in detention in 1990 at the age of 16 after, he claims, stealing several hundred cars. From a juvenile detention facility, he talked about why he stole cars and why he wanted to go clean.

A Cambodian refugee who came to the United States at age 5, So lived in several foster homes.

He began breaking into cars at age 14 and stealing stereos. It was easy. "I just went nuts. It was like a

hobby." So said. Then he graduated to stealing the car itself, using a screwdriver in the ignition.

"I'd drive it around then crash it somewhere by driving it into a lamp post or another parked car," he said.

Adventure turned to profit, as he began stripping cars and selling parts such as amplifiers, stereos, tires, wheels or seats.

So said one reason he liked car theft was because it wasn't violent. When he was released from detention in December 1990, he said he wanted to stay out of trouble.

"But nobody believes me," he said.

Today, So resides in the King County Jail. He is serving a 100-day sentence for assault after a fight in Kirkland, an affluent suburb east of Seattle.

Auto theft, said VanRooy, the Seattle police sergeant, is the property-crime equivalent of date rape. Both are tough to prosecute, because the suspect's story often makes him sound harmless. The auto thief says he was just trying to have some fun with his friends and didn't mean to hurt anyone. And if he's caught in a stolen car, well, he didn't know it was stolen.

But like a date rapist, a car thief is a criminal, VanRooy said.

"A lot of these people are also into gangs, robbery, burglary, assault, narcotics. These guys aren't cute, cuddly joyriders," he said.

Which makes it all the more frustrating when the thieves don't spend time in jail. VanRooy recalls one man arrested seven times in 1992. Another man with a long record who was convicted of three counts of stripping a motor vehicle served 17 days in jail, said Hossfeld, the Seattle detective.

In Snohomish County, under a month-old program called SHO-CAP (Serious Habitual Offender-Comprehensive Action Program), police are dealing with the revolving door of criminal justice by ordering young people with long records who are on probation to be home by 7 p.m.

If they're caught out after curfew, they can be sent to detention. If they're convicted of another crime, they are not allowed to plea bargain, and must serve a maximum sentence. Most of the 15 youths in the program have a history of auto theft, police say.

The insurance industry al-

so wants tougher laws. Under current state law, prosecutors say car thieves don't receive any prison time until their seventh conviction — and even then, the maximum term is a year, at best.

Mel Mooers is a special agent with the National Insurance Crime Bureau, a non-profit agency funded by the insurance industry that assists police in recovering stolen vehicles. Mooers drafted several bills to crack down on auto theft, but said he couldn't get the support he needed to get them before the state legislature this session.

He still holds out hope for emulating what is known as the Michigan plan, in which the insurance industry pays \$1 per auto (by passing on that fee to drivers) to finance public-awareness programs and enhanced enforcement, such as additional police and prosecutors who do nothing but auto-theft cases.

Michael Jemmett is a perfect example of the sort of person Mooers hopes to stop.

Jemmett, 20, was arrested in Snohomish County last spring on four counts of auto theft. His record for stealing cars covers two states and when printed out is longer than a Corvette.

Jemmett was released without paying one penny in bail. That's when his career really took off.

He used his time awaiting trial to steal cars from auto dealerships from Bellingham to Seattle. According to Snohomish County Sheriff's Det. Jerry Ross, Jemmett — "who looks like the all-American boy, a college prep type" — would test-drive cars unaccompanied, make an extra key, and return to the lot the same night to steal the vehicle. Jemmett even stole a travel trailer, Ross said, "because he needed some place to live."

Jemmett was arrested again in October and pleaded guilty to 16 felonies, including 14 counts of auto theft or possession of a stolen car. This month, a Snohomish County Superior Court judge sentenced him to eight years in prison, one of the longest sentences ever handed down in the Seattle area for stealing cars.

Ross said he's pleased with the sentence and hopes it sets a precedent. But for the most part, he says auto thieves make a mockery of justice, escaping punishment again and again.

So he's not holding his breath.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. 2nd SSHB 86

Revision Date: <u>March 9, 1993</u>	Dept. Affected: <u>Health and Social Services</u>
Title: <u>"An Act relating to remedies for property related offenses committed by juveniles"</u>	BRU: <u>Family &amp; Youth Services</u>
Sponsor: <u>Representative(s) BUNDE, Green</u>	Component: <u>Southeastern, Southcentral, &amp; Northern Regions</u>
Requestor: _____	COMPONENT SERIAL NO. <u>0258, 0254, &amp; 0255</u>

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
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REVENUE FUND SOURCE						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

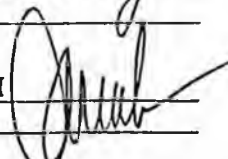
Estimate of current year (FY93) impact: 0.0

**ANALYSIS:** (Attach a separate page if necessary)

There would be no fiscal impact for the Department if this bill were to become law.

Prepared by: Deborah R. Wing, Director   
Division: Department of Health & Social Services

Phone: 465-3191  
Date: 03/09/93

Approved by Commissioner: Theodore A. Mala, MD, MPH   
Agency: Department of Health & Social Services

Date: 3/11/93

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# FISCAL NOTE

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO. 2dSSHB 86**

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to sanctions for property-related offenses ..." BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 Sponsor: Representative Bunde. Green  
 Requestor: House Judiciary COMPONENT SERIAL NO. 43

**Expenditures/Revenues: (Thousands of Dollars)**

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>REVENUE FUND SOURCE:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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**FUNDING:**

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS**

<b>FULL-TIME</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>PART-TIME</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TEMPORARY</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of current year (FY93) impact: \$ none

**ANALYSIS: (attach a separate page if necessary.)**

Prepared By: Brant McGee, Public Advocate Phone: 274-1684  
 Division: Office of Public Advocacy Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura Date: 3/10/93  
 Agency: Department of Administration

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**FISCAL NOTE**

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO. 2dSSHB 8b**

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

Department Affected: Administration

Title: "An Act relating to sanctions for property-related offenses . . ."

BRU: Public Defender Agency

Sponsor: Reps. Bunde, Green

Component: Public Defender Agency

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 1631

**EXPENDITURES/REVENUES:**

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	.	.	.	.	.	.
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	.	.	.	.	.	.

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE:</b>	.	.	.	.	.	.
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**FUNDING:**

1002 Federal Receipts						
1003 GF Match						
1004 GF	.	.	.	.	.	.
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	.	.	.	.	.	.

**POSITIONS:**

FULL-TIME	.	.	.	.	.	.
PART-TIME						
TEMPORARY	.	.	.	.	.	.

Estimate of current year (FY 93) impact: \_\_\_\_\_

**ANALYSIS:** (Attach a separate page if necessary.)  
 See attached.

Prepared by: John Salemi, Public Defender  
 Division: Public Defender Agency

Phone: 279-7541  
 Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usery  
 Agency: Administration

Date: 3/10/93

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PUBLIC DEFENDER FN

**FISCAL NOTE**

**STATE OF ALASKA  
1993 LEGISLATIVE SESSION**

**BILL NO. 2dSSHB 86**

**ANALYSIS: (continued)**

This second sponsor substitute has not been amended in such a way as to change the anticipated fiscal impact on the Alaska Public Defender Agency. The restitution requirements proposed in this bill will cause some Public Defender clients to exercise their right of trial when they might otherwise seek a negotiated disposition. Likewise in juvenile delinquency cases, the accused minor will be less inclined to forgo a trial in favor of admitting the conduct if there is an automatic monetary sanction. Mandatory punishments consistently create a more adversarial atmosphere.

An additional fiscal impact is the inevitable constitutional challenge which will be raised related to these changes in the law. Singling out criminal mischief cases for mandatory restitution is a violation of the equal protection clause of the state and federal constitutions. Similarly, allowing a minor's identification to be made public because they have engaged in conduct which gives rise to criminal mischief charges again is a potential equal protection violation. Constitutional challenges are expensive and labor intensive.

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. 2d SSHB 86

Revision Date: March 10, 1993  
 Title: "...relating to sanctions for property-related offenses committed by juveniles, and to certain records of those offenses."  
 Sponsor: Representative Bunde  
 Requestor: Representative Bunde

Department Affected: Department of Law  
 BRU: Prosecution, Legal Services  
 Component: Prosecution - All  
 COMPONENT SERIAL NO. 0085 through 0090 and 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	****	****	****	****	****	****

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:						
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	****	****	****	****	****	****

FULL-TIME	****	****	****	****	****	****
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law

Phone: 465-3672  
 Date: March 10, 1993  
 Date: March 10, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. 2d SSHB 86

The second sponsor substitute for HB 86 raises several legal issues. Department of Law legal staff would be happy to work with the sponsor or committee staff to help resolve the problems that the department perceives exist in the bill. Because of these problems, the department is not able to determine at this time whether or not the bill will have a fiscal impact.

H B

8 9

Rep. Brian Porter, Chairman

# House Judiciary Committee

Date: March 31, 1993

Place: Capitol Room 120

HB 92 Regulation of Notaries Public

Subject of Meeting: HB 81 Longevity Bonus  
HB 89 Borough Assembly Apportionment

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
✓ Dave Pierdorff	LAA-LEGAL				2450	(Y) N	TO ANSWER QUESTIONS ON HB 89
✓ Rupe Andrews	AARP	Jenaca	99801	789-7422		(Y) N	HB 81
✓ Gene HERRIOTT	Self	CAPTOR BLDG.			465-4797	(Y) N	HB 92
✓ Patty Trent	H. GOV. OFFICE	capitol bldg	811		463-3509	(Y) N	ANSWER questions/ testify HB 92
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

# HOUSE COMMITTEE REPORT

(7)

Date Referred: March 3, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-31-93

The JUDICIARY Committee considered:

HB 89

HOUSE BILL NO. 89

BOROUGH ASSEMBLY APPORTIONMENT

"An Act revising the law on borough assembly apportionment as recommended by the revisor of statutes; and providing for an effective date."

- RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): \_\_\_\_\_ (Dept)  
 fiscal impact \_\_\_\_\_  
 zero fiscal note \_\_\_\_\_

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)  
 fiscal note(s) \_\_\_\_\_  
 zero fiscal note(s) LAW 3/3/93

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian D. Porter</i>	✓				
<i>David Phillips</i>	✓				
<i>Jeannette Jones</i>	✓				
<i>John J. ...</i>	✓				
<i>Joseph ...</i>	✓				

*Brian D. Porter*  
 \_\_\_\_\_  
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 89

Revision Date: February 26, 1993  
Title: "...revising the law on borough assembly apportionment..."  
Sponsor: House Rules Committee  
Requestor: House C&RA Committee

Department Affected: Law  
BRU: Legal Services  
Component: Operations  
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE:						
-------------------------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 CF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
Division: Administrative Services Division Date: February 26, 1993  
Approved by Commissioner: Richard I. Pegues (AR)  
Agency: Department of Law Date: February 26, 1993  
Approved by Commissioner: Charles E. Cole, Attorney General

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 89

ANALYSIS: (continued)

This is a legislative revisor's bill that updates, for clarity purposes, the rules governing the apportionment of borough assemblies, found in AS 29.20. The Department of Law has previously advised that there are no substantive differences between this bill and the state's existing law. Consequently, there should not be a fiscal impact.

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

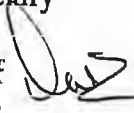
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

March 2, 1993

**SUBJECT:** House Bill 89 - Borough Reapportionment

**TO:** Representative Brian Porter  
Chair, House Judiciary

**FROM:** David R. Dierdorff   
Revisor of Statutes

Your committee will soon receive HB 89, which will be reported out of the Community and Regional Affairs Committee with individual recommendations this week (the hearing and action occurred today, March 2).

This bill is a technical rewrite of the laws providing for apportionment and reapportionment of the borough assembly in general law boroughs. It applies only to general law boroughs that have chosen to have all or some seats on the assembly represent districts within the borough. It does not affect at large seats or the ability of a borough to chose to have all seats be at large. Primarily, it clarifies the appeal and review process.

I have enclosed a sectional analysis that was prepared for Legislative Council, together with a letter from the Department of Law reflecting their favorable review of the bill.

I would be happy to answer any questions that you or your committee may have regarding the bill. Thank you in advance for your prompt consideration of this house-keeping measure.

DRD:gc  
93-187.glc

Enclosure

**DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

COPY

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

January 21, 1993

**SUBJECT:** Special Revisor's Bill (Work Order No. 8-LS0381\E)  
**TO:** Representative Eldon Mulder  
Chair, Legislative Council  
**FROM:** David R. Dierdorff  
Revisor of Statutes

The enclosed work draft was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

\* \* \* shall prepare for submission to the legislature legislation \* \* \* to otherwise improve the form or substance of \* \* \* the statute law of this state.

The work draft proposes a rewriting of the laws governing apportionment of borough assemblies.

**BACKGROUND.** Last year, during routine editorial work on AS 29 (municipal government), our office and the editors of the Michie Company discovered a manifest error in an internal reference in AS 29.20.110, which was corrected under AS 01.05.-031. However, when researching that error, it became apparent that AS 29.20.070 - 29.20.110 contained other references that seemed either incorrect or incomplete. Furthermore, it was difficult to make any sense of the provisions. Consequently, I asked Tam Cook to prepare a draft revision of the law that would retain the substantive scheme set out in existing law, but would be reorganized and readable. That draft provided a starting point for the enclosed work draft. A review of our microfilm records of ch. 128, SLA 1980, which enacted the laws that became AS 29.20.060 - 29.20.110, confirmed that several references had been inadvertently omitted, and also provided insight into the legislative intent in enacting the provisions.

**EXISTING LAW.** The existing law on borough assembly composition and apportionment (AS 29.20.060 - 29.20.120) is set out in an appendix so that it can be easily compared with the draft. The relevant provisions are:

**AS 29.20.060 (Assembly composition and apportionment)** - Subsection (a) requires that composition and apportionment meet federal equal representation standards. Subsection (b) provides for composition and apportionment of the assembly of a new borough (as set out in the voter approved incorporation petition or as prescribed by a preexisting ordinance or charter). This section is not amended in the draft, but is set out here because it is referenced in several other provisions. This section applies to all boroughs.

**AS 29.20.070 (Assembly composition and form of representation)** - Applicable by the terms of subsection (e) only to general law boroughs and to home rule boroughs that do not have charter provisions on the same subject, this section requires a vote on the form of representation and assembly composition after each federal census. A vote on apportionment must also be taken at that time if relevant to the form of representation chosen, which must be one of three types set out in subsection (b).

**AS 29.20.080 (Assembly recomposition and reapportionment)** - Subsection (a) requires that the assembly determine, within two months after each federal census, whether the existing apportionment meets the legal standards. It further requires submitting to the voters a plan of apportionment, which may include a plan that merely readopts an existing plan (if it is found to comply with the law). Subsection (b) grants the assembly the power to change the apportionment by ordinance whenever it determines that it needs changing to comply with the law, and also authorizes a change in "composition" (which we believe means "form of representation" in this context) at the same time. Subsection (c) allows 50 voters to petition the assembly to request a review of an existing apportionment. Subsection (d) requires that ordinances adopted under (b) or (c) be submitted to the voters for approval. Subsection (e) places a six month deadline on the assembly to adopt a reapportionment ordinance after a determination under (b) or (c) that the existing plan does not comply. Failure to take action triggers the authority of the commissioner of community and regional affairs to issue an order of reapportionment.

**AS 29.20.090 (Apportionment appeals)** - Provides for an administrative appeal to the commissioner of a reapportionment ordinance approved by the voters or of a decision by the assembly that an existing plan complies with the law. The appeal is undertaken by the petition of 50 voters. If the commissioner determines that a reapportionment ordinance is defective or that a new plan is needed, the assembly must adopt a plan and submit it to the voters. If the assembly fails to act, the commissioner may issue an order of reapportionment.

**AS 29.20.100 (Judicial review and relief)** - Subsection (a) gives the commissioner authority to request the courts to enforce a reapportionment order. In

1980, when the free conference committee bill that became ch. 128, SLA 1980 was drafted, the statutory reference to the commissioner's orders was inadvertently incomplete. That error was repeated in subsection (b), which sets out the actions that may be appealed (presumably by anyone with standing) to the superior court.

**AS 29.20.110 (Effective date of apportionment)** - This section, which provides for the effective date of apportionment ordinances or orders that are the product of the various preceding provisions, contains one error dating back to 1980, and another that was created when the AS 29 revision (enacted in 1985) was prepared. The first is the omission of a statutory reference and the second was the substitution of irrelevant language for an important provision in (b)(2) of the section. There was a third error (an erroneous statutory reference) that was corrected editorially in 1992.

**AS 29.20.120 (Applicability)** - Provides that AS 29.20.080 - 29.20.110 do not apply to unified municipalities or to home rule boroughs if the home rule charter provides for reapportionment of the assembly.

### SECTIONAL ANALYSIS.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

\* **Section 1.** This section moves a portion of current AS 29.20.080(a) into AS 29.20.070(c) for organizational clarity.

\* **Sec. 2.** AS 29.20.080 is rewritten for clarity. It contains all of the substantive provisions of the existing law, with the exception of material transferred to AS 29.20.070(c). In subsection (c), the existing provision of AS 29.20.080(b) relating to changes in "composition" of the assembly is carried forward as an authorization to change the "form of representation". If the legislature meant to equate "composition" with "size" rather than "form," this proposal can be easily modified. Subsection (d) is new, and simply restates a provision now found in AS 29.20.070(c) to ensure that in any vote relating to assembly apportionment, the plan will be explained to the voters.

\* **Sec. 3.** AS 29.20.090 is rewritten for clarity. There are no substantive changes.

\* **Sec. 4.** AS 29.20.100 is amended to update statutory references to reflect the rewriting of AS 29.20.070 - 29.20.090.

Representative Eldon Mulder  
January 21, 1993  
Page 4

\* **Sec. 5.** AS 29.20.110 is amended to update references and to correct, in subsection (b), what we believe was an error in the preparation of the AS 29 revision. Before ch. 74, SLA 1985 was enacted, the predecessor to AS 29.20.110(b)(2) (AS 29.23.031(b)(2)) read:

(2) receipt by the borough assembly of a statement of nonobjection from the Attorney General of the United States to the proposed change in the composition or apportionment of the assembly; or

For some reason, in ch. 74, which simply reenacted the prior law, the same paragraph read:

(2) the delivery to the mayor of a reapportionment order of the commissioner under AS 29.20.090(e); or

That provision makes no sense in the context. In bill sec. 5, existing (b)(2) is deleted and the substance of the prior law is incorporated in the amendment to (b)(1).

\* **Sec. 6.** Provides an immediate effective date.

If you or your staff have any questions, or if I can be of further assistance, please feel free to contact me.

DRD:gc  
93-051.glc

CC: Deborah Behr  
Department of Law

Enclosure

**APPENDIX - TEXT OF AS 29.20.060 - 29.20.120**

**Sec. 29.20.060. Assembly composition and apportionment.** (a) Assembly composition and apportionment shall be consistent with the equal representation standards of the Constitution of the United States.

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with the requirements of this section and prescribed by charter or ordinance.

(c) An assembly may not provide for weighted voting.

(d) A member of the assembly may not be elected or appointed by and from the council of a city in the borough.

(e) This section applies to home rule and general law municipalities.

**Sec. 29.20.070. Assembly composition and form of representation.** (a) The assembly shall provide for its composition and for the form of its representation.

(b) Not later than the first regular election that occurs after the report of a federal decennial census, the assembly shall propose and submit to the voters of the borough, at that regular election or at a special election called for the purpose, one or more forms of assembly representation. The forms of representation that the assembly may submit to the voters are:

(1) election of members of the assembly at large by the voters throughout the borough;

(2) election of members of the assembly by district, including

(A) election at large by the voters throughout the borough, but with a requirement that a candidate live in an election district established by the borough for election of assembly members; or

(B) election from election districts established by the borough for the election of assembly members by the voters of a district;

(3) election of members of the assembly both at large and by district.

(c) A form of assembly representation that includes election of assembly members under (b)(2) or (b)(3) of this section shall be submitted to the voters of the borough with a plan of apportionment as required by AS 29.20.080.

(d) The assembly shall, within 30 days after certification of the results of the election held under this section, adopt an ordinance providing for

(1) composition of the assembly;

(2) the form of assembly representation that received the most votes;

and

(3) if applicable, the apportionment of assembly seats in accordance with the form of representation that received the most votes.

(e) This section applies to home rule and general law municipalities, except it does not apply to a

- (1) unified municipality;
- (2) home rule borough if the home rule charter contains procedures for changing assembly composition and form of representation.

**Sec. 29.20.080. Assembly recomposition and reapportionment.** (a) Not later than two months after the official report of a federal decennial census, the assembly shall determine and declare by resolution whether the existing apportionment of the assembly meets the standards of AS 29.20.060. If the assembly submits to the voters a form of representation that includes election of assembly members under AS 29.20.070(b)(2) or (b)(3) the assembly shall submit with the proposition a proposed plan of apportionment that corresponds to the form of representation proposed. The assembly shall describe the plan of apportionment in the ballot proposition, and may present the plan in any manner that it believes accurately describes the apportionment that is proposed under the form of representation. If the assembly determines that its existing apportionment meets the standards of AS 29.20.060, the assembly may include the existing apportionment as a proposed plan of apportionment of assembly seats that corresponds to a form of representation that is proposed.

(b) The assembly shall provide, by ordinance, for a change in an existing apportionment of the assembly whenever it determines that the apportionment does not meet the standards of AS 29.20.060. At the same time, the assembly may, by ordinance, change the composition of the assembly.

(c) If a petition signed by not less than 50 voters requests the assembly to determine whether the existing apportionment meets the standards for apportionment in AS 29.20.060, and the petition contains evidence that the existing apportionment does not meet those standards, the assembly may make the determination requested. The assembly shall make a determination required by this subsection within two months of receipt of a petition that meets the requirements of this subsection.

(d) An ordinance adopted by the assembly under (b) or (c) of this section shall be submitted to the voters for approval. In order for the ordinance to be approved it must receive the approval of a majority of the votes cast.

(e) Within six months after a determination by the assembly under (b) or (c) of this section that the current apportionment does not meet the standards of AS 29.20.060 the assembly shall adopt an ordinance providing for reapportionment and submit the ordinance to the voters. If, at the end of the six-month time period, an ordinance providing for reapportionment has not been approved by the voters, the commissioner shall provide for the reapportionment in accordance with the standards of AS 29.20.060 by preparing an order of reapportionment and delivering the order to the borough mayor.

**Sec. 29.20.090. Apportionment appeals.** (a) A reapportionment ordinance approved by the voters, or a decision of the assembly that the standards of AS 29.20.060 do not require a change in apportionment, may be appealed to the commissioner. Fifty voters may submit a petition to the commissioner requesting the

commissioner to determine whether the proposed reapportionment ordinance approved by the voters meets the standards of AS 29.20.060 or whether a decision of the assembly that the standards of AS 29.20.060 do not require a change of apportionment is correct. If the petition asks the commissioner to review an ordinance approved by the voters under AS 29.20.080(e), the petition shall be delivered to the commissioner not later than 20 days after certification of the election. If the petition asks the commissioner to review a decision of the assembly under AS 29.20.080(c), the petition shall be delivered to the commissioner within 20 days of the decision of the assembly.

(b) The commissioner shall review the petition and may make the determination requested. The commissioner shall provide copies of the determination to the persons petitioning for appeal and to borough officials not later than 60 days after the commissioner receives the petition.

(c) If the commissioner determines that the proposed reapportionment ordinance approved by the voters does not meet the standards of AS 29.20.060, or if the commissioner determines that the decision of the assembly that the standards of AS 29.20.060 do not require a change of apportionment is not correct, the commissioner shall, by order, direct the assembly to prepare a reapportionment ordinance that meets the standards of AS 29.20.060 and submit the ordinance to the voters.

(d) When the assembly has been directed by the commissioner to prepare a reapportionment ordinance under (c) of this section, the assembly shall, within two months after its receipt of the commissioner's order, adopt an ordinance providing for reapportionment. The assembly shall submit an ordinance adopted under this subsection to the voters at an election held within 60 days after the date of adoption of the reapportionment ordinance.

(e) If at the end of the time period provided under (d) of this section an ordinance providing for reapportionment has not been approved by the voters, the commissioner shall provide for the reapportionment of the assembly in accordance with the standards of AS 29.20.060 by preparing an order of reapportionment and delivering the order to the borough mayor.

**Sec. 29.20.100. Judicial review and relief.** (a) The commissioner may request the superior court to enforce a reapportionment order issued under AS 29.20.090(e).

(b) Each of the following is subject to judicial review:

(1) a plan of reapportionment approved by the voters under AS 29.20.080(a);

(2) a determination by the assembly under AS 29.20.080 that the standards of AS 29.20.060 do not require a change in apportionment;

(3) a reapportionment ordinance approved by the voters under AS 29.20.080(d);

(4) a reapportionment order of the commissioner made under AS 29.20.090(c);

(5) a reapportionment ordinance approved by the voters under AS

29.20.090(d); and

(6) a reapportionment order of the commissioner made under AS 29.20.090(e).

**Sec. 29.20.110. Effective date of apportionment.** (a) A change in assembly apportionment or composition under AS 29.20.080 or 29.20.090 is effective beginning with the first regular election for members of the assembly that is held more than 60 days after the later of

(1) approval of a reapportionment ordinance by the voters under AS 29.20.080(a), 29.20.080(e), or 29.20.090(d); or

(2) the delivery to the mayor of a reapportionment order of the commissioner under AS 29.20.090(e).

(b) The provisions of (a) of this section do not apply to a borough in which a change in assembly composition or apportionment is subject to review and approval or determination of nonobjection by the Attorney General of the United States under 42 U.S.C. 1971-1974 (Voting Rights Act of 1965), as amended. A change in assembly composition or apportionment subject to review under 42 U.S.C. 1971-1974, as amended, is effective beginning with the first regular election for members of the assembly that is held more than 60 days after

(1) receipt by the assembly of approval by the Attorney General of the United States of the proposed change in the composition or apportionment of the assembly;

(2) the delivery to the mayor of a reapportionment order of the commissioner under AS 29.20.090(e); or

(3) the last day on which the Attorney General of the United States may review a proposed change in the composition or apportionment of the assembly.

**Sec. 29.20.120. Applicability of apportionment provisions.** The provisions of AS 29.20.080 - 29.20.110 apply to home rule and general law municipalities, except they do not apply to a

(1) unified municipality;

(2) home rule borough if the borough, by home rule charter, provides for reapportionment of the assembly.

DRD:gc  
93-052.glc

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

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- KEY BANK BUILDING  
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- P.O. BOX K - STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 485-3800  
FAX: (907) ~~462-5395~~ 465-6735

February 9, 1993

David Dierdorff, Revisor of Statutes  
Legislative Affairs Agency  
130 Seward Street  
Goldstein Bldg., Rm. 414  
Juneau, AK 99801-2105

Dear Dave:

Thanks for providing me with a copy of the 1993 special revisor's bill governing apportionment of borough assemblies, as well as a copy of the regular revisor's bill.

I have circulated the copies to the appropriate assistant attorneys general. They reported uniformly that the bills make technical improvements in the law and that the bills present no legal problems if enacted into law.

I appreciated the opportunity to review these bills.

Sincerely,

CHARLES E. COLE  
ATTORNEY GENERAL

By: *Deborah E. Behr*  
Deborah E. Behr  
Assistant Attorney General

DEB:cl



HOUSE COMMITTEE REPORT

3/3

(7)

Date Referred: January 25, 1993

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 3-2-93

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HB 89

HOUSE BILL NO. 89

BOROUGH ASSEMBLY APPORTIONMENT

"An Act revising the law on borough assembly apportionment as recommended by the revisor of statutes; and providing for an effective date."

RECOMMENDATIONS:

be replaced with \_\_\_\_\_  | the same title  
 | a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note law

zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
Car Brenda Bunde	<input checked="" type="checkbox"/>				
Cal Davis Davies	<input checked="" type="checkbox"/>				
J. Ed Willis Willis	<input checked="" type="checkbox"/>				
W.K. Williams Williams	<input checked="" type="checkbox"/>				
W.O.D. Lee Toohy	<input checked="" type="checkbox"/>				
Harley Olberg Olberg	<input checked="" type="checkbox"/>				
Jerry Sanders Sanders	<input checked="" type="checkbox"/>				

Harley Olberg  
 CHAIRMAN'S SIGNATURE

HB

90

# HOUSE COMMITTEE REPORT

(7)  
 Date Referred: January 25, 1993 FURTHER REFERRALS: Finance

Date of Committee Action: 2/1/93

The JUDICIARY Committee considered: HB 90

HOUSE BILL NO. 90 1993 REVISOR'S BILL

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title

- have attached amendments(s)
- do pass
- do not pass
- no recommendations
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal impact \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Joseph P. ...</i>	✓				
<i>John ...</i>	X				
<i>Janette James</i>	X				
<i>Brian Porter</i>	✓				
<i>Said Phillips</i>	✓				
<i>Jim ...</i>	✓				
<i>Cliff ...</i>	✓				

*Brian Porter*  
 CHAIRMAN'S SIGNATURE

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**M E M O R A N D U M**

January 26, 1993

**SUBJECT:** House Bill 90 (1993 Revisor's Bill)

**TO:** Representative Brian Porter  
Chair, House Judiciary Committee

**FROM:** David R. Dierdorff   
Revisor of Statutes

I note that HB 90 has been referred to your committee. I enclose a copy of the sectional analysis of the bill that was prepared for Legislative Council. It has been customary for the legislature to move the revisor's bill as early in the session as committee schedules allow in order to ensure that a bill passes each year in order to keep these technical bills from becoming monsters.

I would be happy to meet with you or your staff to answer any questions that you may have before scheduling the bill for hearing. Legislative Affairs Agency will be providing a zero fiscal note for the bill.

Thank you in advance for your cooperation in this matter. I look forward to working with you and your committee.

DRD:gc  
93-064.glc

Enclosure