

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7879 HOUSE JUDICIARY

FISCAL NOTE

No. 2

Bill Version: HB 525

BILL N (H) Publish Date: 3/9/94

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Relating to Evidence in Sexual BRJ: Office of Public Advocacy
Assault Cases..." Component: Office of Public Advocacy
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|----------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

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 Usery Date: 2/17/94
 Agency: Administration

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FISCAL NOTE

No. 2

Bill Version: HB 525

(H) Publish Date: 3/9/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL N

Revision Date: _____ Dept. Affected: Administration
 Title: *An Act Relating to Evidence in Sexual BRU: Office of Public Advocacy
Assault Cases... Component: Office of Public Advocacy
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

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: 2/17/94
 Agency: Administration

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FISCAL NOTE

No. 1
 Bill Version: HB 525
 (H) Publish Date: 3/9/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

BILL

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Relating to Evidence in Sexual BRU: Public Defender Agency
Assault Cases..." Component: Public Defender Agency
 Sponsor: _____
 Requester: Governor COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|----------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____

Approved by Commissioner: Nancy Bear Usura Date: 2/17/94
 Agency: Administration

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FISCAL NOTE

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 Bill Version: HB 525
 (H) Publish Date: 3/9/94

STATE OF ALASKA
 19th 4 LEGISLATIVE SESSION

BILL

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Relating to Evidence in Sexual BPU: Public Defender Agency
Assault Cases..." Component: Public Defender Agency
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary, _____)

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____
 Approved by Commissioner: Nancy Bear Usura Date: 2/17/94
 Agency: Administration

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**GOVERNOR HICKEL'S
BILL TO PROTECT VICTIMS OF RAPE,
DOMESTIC VIOLENCE, AND CHILD ABUSE
(SB 351 & HB 525)**

In far too many cases of rape, domestic violence, and child sexual abuse, Alaska's victims are often themselves "put on trial" in the course of criminal proceedings. The emotional trauma which such crime victims routinely suffer in the criminal justice system can in some cases be nearly as traumatic as the crime itself.

This legislation seeks to help solve these problems in several ways. First, it levels the playing field by amending the rules of evidence so that victims can't be "put on trial" by the accused rapist.

Defendants in rape cases used to claim that the rape simply didn't happen--that no sexual contact took place. Thankfully, today, scientific advances in both the gathering and analysis of forensic evidence such as human hair, blood, semen, skin scrapings and DNA have often made it much more difficult for accused rapists to use the "we never had sex" defense. The new defense is--while perhaps conceding that sexual contact did take place--attempting to put the rape victim on trial by claiming that the woman "consented" to sex.

In cases such as this--when the rapist claims the defense of "consent"--the rules should permit the State to stand up for the victim, and to rebut this claim by introducing evidence of the defendant's prior rapes.

Similarly, in cases of domestic violence and other violent assaults--such as cases involving a self-defense claim in which the defendant places the victim's character in issue--a level playing field means that the State to stand up for the victim, and to rebut this claim by introducing evidence of the defendant's prior rapes.

This proposed legislation also deletes the unnecessary language in Rule 404 that has made it difficult to prosecute repeat child molesters. As it reads now, the Rule has been erroneously interpreted by some judges to indicate that the jury can learn that an accused molester has abused other children only if the court finds that it was part of a very specific "common scheme or plan." This bill would fix that problem by simply eliminating this confusing phrase.

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 525

March 9, 1994

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends Alaska Rule of Evidence 404 in several respects to help protect the victims of crimes in this state.

In far too many cases of sexual assault, domestic violence, and child sexual abuse, Alaska's victims are often themselves "put on trial" in the course of criminal proceedings. The emotional trauma that such crime victims routinely suffer in the criminal justice system can in some cases be nearly as traumatic as the crime itself.

Therefore, in order to address these problems and to better protect Alaska's citizenry, especially women and children who are frequently the victims of these crimes, we have proposed three changes to Rule of Evidence 404 which are intended to accomplish the following three goals.

The first goal is to reduce the number of times a sexual assault victim is "put on trial" by authorizing the admission into evidence of other sexual assaults or attempted sexual assaults by the defendant if the defendant claims that the victim voluntarily "consented" to the sexual activity. When a defendant argues that the victim consented, the prosecution should be permitted to stand up for the victim and rebut this claim by introducing evidence to the jury that the defendant has sexually assaulted or attempted to sexually assault other victims in the past.

The second goal is to similarly protect Alaska's sexually abused children. Rule of Evidence 404(b) was intended to prevent sexual predators and other child abusers from manipulating juries by hiding their past crimes of this type. Unfortunately, a confusing and unnecessary phrase -- "to show a common scheme or plan" -- has



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 525

March 9, 1994

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends Alaska Rule of Evidence 404 in several respects to help protect the victims of crimes in this state.

In far too many cases of sexual assault, domestic violence, and child sexual abuse, Alaska's victims are often themselves "put on trial" in the course of criminal proceedings. The emotional trauma that such crime victims routinely suffer in the criminal justice system can in some cases be nearly as traumatic as the crime itself.

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The Honorable Ramona Barnes
March 9, 1994
Page 2

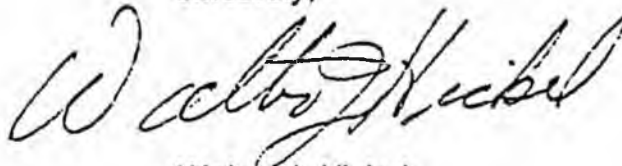
been misinterpreted by several Alaska courts to exclude evidence meant to be allowed under the rule. This bill would fix that problem by simply eliminating this confusing phrase. Evidence of other sexual assaults or sexual abuse by the defendant toward the same or another child should be admissible if those acts are similar to the offense charged, whether or not the evidence demonstrates a "common scheme or plan." This bill also specifies a 10-year time period as being not too remote for the admissibility of evidence of prior similar sexual assaults or sexual abuse offenses committed by the defendant against children.

The third goal relates to evidence of past violence on the part of the defendant. In cases of domestic violence and other violent crimes, the defendant often claims that the victim was the initial aggressor. The defendant claims, in essence, that "the victim hit me first" and that therefore the victim "had it coming." Under the existing rule of evidence, the defendant is then permitted to introduce all sorts of evidence about the victim's past reputation for violence -- and hide the fact that the defendant's own past contains an even more violent record. This bill would fix the rule by permitting the prosecution to stand up for the victim, and to rebut these claims by introducing evidence of the defendant's own past violence.

A defendant who claims that the victim was the aggressor should not be able to hide behind Rule 404 to keep a jury from learning that the defendant has an even greater reputation for violence in the community. The most common "relevant character trait of the accused" contemplated in this proposed amendment to Rule of Evidence 404(a) is the accused's reputation for violence or aggression.

The changes proposed in this bill will help level the playing field for the state in its efforts to combat crime. I urge your favorable action on this bill.

Sincerely,



Walter J. Hickel
Governor

The Honorable Ramona Barnes
March 9, 1994
Page 2

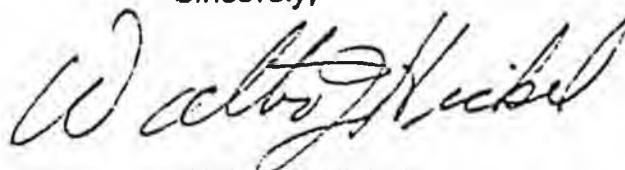
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A defendant who claims that the victim was the aggressor should not be able to hide behind Rule 404 to keep a jury from learning that the defendant has an even greater reputation for violence in the community. The most common "relevant character trait of the accused" contemplated in this proposed amendment to Rule of Evidence 404(a) is the accused's reputation for violence or aggression.

The changes proposed in this bill will help level the playing field for the state in its efforts to combat crime. I urge your favorable action on this bill.

Sincerely,



Walter J. Hickel
Governor

HOUSE BILL NO. 525

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/9/94

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act amending Alaska Rule of Evidence 404, relating to the admissibility of
2 certain character evidence in court proceedings."

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

4 * Section 1. FINDINGS AND PURPOSE. The legislature finds that, in far too many cases
5 of sexual assault, attempted sexual assault, domestic violence, and child sexual abuse, Alaska's
6 victims are often themselves "put on trial" in the course of criminal proceedings. The
7 legislature further finds that the emotional trauma that such crime victims can suffer in the
8 criminal justice system can in some cases be nearly as traumatic as the crime itself. In an
9 effort to address these problems, the legislature finds that the amendments to Alaska Rule of
10 Evidence 404 made by this Act are necessary. First, the legislature finds that in cases of
11 domestic violence and other violent crimes in which the defendant claims that the victim was
12 the initial aggressor, an amendment is necessary to permit the prosecutor to rebut this claim
13 by introducing evidence of the defendant's own past violence. Second, in cases of child abuse
14 or child sexual abuse, a further amendment is essential to remove the confusion in some

HOUSE BILL NO. 525

**IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION**

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/9/94

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act amending Alaska Rule of Evidence 404, relating to the admissibility of
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3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. FINDINGS AND PURPOSE.** The legislature finds that, in far too many cases
5 of sexual assault, attempted sexual assault, domestic violence, and child sexual abuse, Alaska's
6 victims are often themselves "put on trial" in the course of criminal proceedings. The
7 legislature further finds that the emotional trauma that such crime victims can suffer in the
8 criminal justice system can in some cases be nearly as traumatic as the crime itself. In an
9 effort to address these problems, the legislature finds that the amendments to Alaska Rule of
10 Evidence 404 made by this Act are necessary. First, the legislature finds that in cases of
11 domestic violence and other violent crimes in which the defendant claims that the victim was
12 the initial aggressor, an amendment is necessary to permit the prosecutor to rebut this claim
13 by introducing evidence of the defendant's own past violence. Second, in cases of child abuse
14 or child sexual abuse, a further amendment is essential to remove the confusion in some

1 Alaska courts caused by the unnecessary inclusion in Alaska Rule of Evidence 404(b)(2) of
2 the phrase "to show a common scheme or plan." Finally, in sexual assault and attempted
3 sexual assault cases in which the defendant claims that the victim voluntarily "consented" to
4 the sexual activity, further amendment is necessary to permit the prosecution to rebut this
5 claim by introducing evidence of other sexual assaults or attempted sexual assaults by the
6 defendant.

7 * Sec. 2. Alaska Rule of Evidence 404 is amended to read:

8 Rule 404. CHARACTER EVIDENCE NOT ADMISSIBLE TO PROVE
9 CONDUCT -- EXCEPTIONS -- OTHER CRIMES. (a) CHARACTER EVIDENCE
10 GENERALLY. Evidence of a person's character or a trait of his character is not
11 admissible for the purpose of proving that he acted in conformity therewith on a
12 particular occasion, except:

13 (1) Character of Accused. Evidence of a relevant trait of his character
14 offered by an accused, or by the prosecution to rebut the same;

15 (2) Character of Victim. Evidence of a relevant trait of character of
16 a victim of crime offered by an accused, or by the prosecution to rebut the same, or
17 evidence of a relevant character trait of an accused or of a character trait for
18 peacefulness of the victim offered by the prosecution in a [HOMICIDE] case to rebut
19 evidence that the victim was the first aggressor, subject to the following procedure:

20 (i) When a party seeks to admit the evidence for any purpose,
21 he must apply for an order of the court at any time before or during the trial
22 or preliminary hearing.

23 (ii) The court shall conduct a hearing outside the
24 presence of the jury in order to determine whether the probative value
25 of the evidence is outweighed by the danger of unfair prejudice,
26 confusion of the issues, or unwarranted invasion of the privacy of the
27 victim. The hearing may be conducted in camera where there is a
28 danger of unwarranted invasion of the privacy of the victim.

29 (iii) The court shall order what evidence may be
30 introduced and the nature of the questions which shall be permitted.

31 (iv) In prosecutions for the crime of sexual assault in

1 Alaska courts caused by the unnecessary inclusion in Alaska Rule of Evidence 404(b)(2) of
2 the phrase "to show a common scheme or plan." Finally, in sexual assault and attempted
3 sexual assault cases in which the defendant claims that the victim voluntarily "consented" to
4 the sexual activity, further amendment is necessary to permit the prosecution to rebut this
5 claim by introducing evidence of other sexual assaults or attempted sexual assaults by the
6 defendant.

7 * Sec. 2. Alaska Rule of Evidence 404 is amended to read:

8 Rule 404. CHARACTER EVIDENCE NOT ADMISSIBLE TO PROVE
9 CONDUCT -- EXCEPTIONS -- OTHER CRIMES. (a) CHARACTER EVIDENCE
10 GENERALLY. Evidence of a person's character or a trait of his character is not
11 admissible for the purpose of proving that he acted in conformity therewith on a
12 particular occasion, except:

13 (1) Character of Accused. Evidence of a relevant trait of his character
14 offered by an accused, or by the prosecution to rebut the same;

15 (2) Character of Victim. Evidence of a relevant trait of character of
16 a victim of crime offered by an accused, or by the prosecution to rebut the same, or
17 evidence of a relevant character trait of an accused or of a character trait for
18 peacefulness of the victim offered by the prosecution in a [HOMICIDE] case to rebut
19 evidence that the victim was the first aggressor, subject to the following procedure:

20 (i) When a party seeks to admit the evidence for any purpose,
21 he must apply for an order of the court at any time before or during the trial
22 or preliminary hearing.

23 (ii) The court shall conduct a hearing outside the
24 presence of the jury in order to determine whether the probative value
25 of the evidence is outweighed by the danger of unfair prejudice,
26 confusion of the issues, or unwarranted invasion of the privacy of the
27 victim. The hearing may be conducted in camera where there is a
28 danger of unwarranted invasion of the privacy of the victim.

29 (iii) The court shall order what evidence may be
30 introduced and the nature of the questions which shall be permitted.

31 (iv) In prosecutions for the crime of sexual assault in

1 any degree and attempt to commit sexual assault in any degree,
2 evidence of the victim's conduct occurring more than one year before
3 the date of the offense charged is presumed to be inadmissible under
4 this rule, in the absence of a persuasive showing to the contrary.

5 (3) Character of Witness. Evidence of the character of a
6 witness, as provided in Rules 607, 608, and 609.

7 (b) OTHER CRIMES, WRONGS, OR ACTS. (1) Evidence of other crimes,
8 wrongs, or acts is not admissible if the sole purpose for offering the evidence is to
9 prove the character of a person in order to show that the person acted in conformity
10 therewith. It is, however, admissible for other purposes, including, but not limited to,
11 proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence
12 of mistake or accident.

13 (2) In a prosecution for a crime involving a physical or sexual assault
14 or abuse of a minor, evidence of other acts by the defendant toward the same or
15 another child is admissible [TO SHOW A COMMON SCHEME OR PLAN] if
16 admission of the evidence is not precluded by another rule of evidence and if the prior
17 offenses

18 (i) occurred within the 10 years preceding the date
19 of the offense charged [ARE NOT TOO REMOTE IN TIME];

20 (ii) are similar to the offense charged; and

21 (iii) were committed upon persons similar to the
22 prosecuting witness.

23 (3) In a prosecution for a crime of sexual assault in any degree or
24 attempt to commit sexual assault in any degree, evidence of other sexual assaults
25 or attempted sexual assaults by the defendant against the same or another person
26 is admissible if the defendant relies on a defense of consent.

27 * Sec. 3. The provisions of secs. 1 and 2 of this Act take effect only if they receive the
28 two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State
29 of Alaska.

1 any degree and attempt to commit sexual assault in any degree,
2 evidence of the victim's conduct occurring more than one year before
3 the date of the offense charged is presumed to be inadmissible under
4 this rule, in the absence of a persuasive showing to the contrary.

5 (3) Character of Witness. Evidence of the character of a
6 witness, as provided in Rules 607, 608, and 609.

7 (b) OTHER CRIMES, WRONGS, OR ACTS. (1) Evidence of other crimes,
8 wrongs, or acts is not admissible if the sole purpose for offering the evidence is to
9 prove the character of a person in order to show that the person acted in conformity
10 therewith. It is, however, admissible for other purposes, including, but not limited to,
11 proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence
12 of mistake or accident.

13 (2) In a prosecution for a crime involving a physical or sexual assault
14 or abuse of a minor, evidence of other acts by the defendant toward the same or
15 another child is admissible [TO SHOW A COMMON SCHEME OR PLAN] if
16 admission of the evidence is not precluded by another rule of evidence and if the prior
17 offenses

18 (i) occurred within the 10 years preceding the date
19 of the offense charged [ARE NOT TOO REMOTE IN TIME];

20 (ii) are similar to the offense charged; and

21 (iii) were committed upon persons similar to the
22 prosecuting witness.

23 (3) In a prosecution for a crime of sexual assault in any degree or
24 attempt to commit sexual assault in any degree, evidence of other sexual assaults
25 or attempted sexual assaults by the defendant against the same or another person
26 is admissible if the defendant relies on a defense of consent.

27 * Sec. 3. The provisions of secs. 1 and 2 of this Act take effect only if they receive the
28 two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State
29 of Alaska.

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

BILL N

NO. _____
Bill Version HB 527
(H) Publish Date: 3/9/94

Revision Date: _____ Dept. Affected: Public Safety
Title: Extending the Maximum Period of Probation BRU: Alaska State Troopers
after Conviction Component: Detachments
Sponsor: Rules by Request
Requestor: Governor COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|--|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL EXPENDITURES | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES () Revenue Code | -0- | -0- | -0- | -0- | -0- | -0- |

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- |

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Lee Ann Lucas Phone: 465-4322
Division: Office of the Commissioner Date: 2/16/94
Approved by Commissioner: *Richard L. Burton* Date: **COMMITTEE COPY**
Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL N

Bill Version HB 527
(H) Publish Date: 3/9/94

Revision Date: _____ Dept. Affected: Public Safety
 Title: Extending the Maximum Period of Probation BRU: Alaska State Troopers
after Conviction Component: Detachments
 Sponsor: Rules by Request
 Requestor: Governor COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL EXPENDITURES | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES () | -0- | -0- | -0- | -0- | -0- | -0- |
| <small>Revenue Code</small> | | | | | | |

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- |

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Office of the Commissioner Date: 2/16/94
 Approved by Commissioner: *Richard L. Burton* Date: **COMMITTEE COPY**
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

No. 4
 Bill Version: HB 527
 (H) Publish Date: 3/9/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: February 15, 1994
 Title: "...extending the maximum period of probation after conviction for certain offenses."
 Sponsor: Rules/Request of Governor
 Requestor: Governor's Office

Department Affected: Department of Law
 BRU: Prosecution
 Component: All
 COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-----------------|-------|-------|-------|-------|-------|-------|
| PERSONAL | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

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

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

FUNDING:

| | | | | | | |
|-----------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/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 (FY94) impact: -0-

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

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: February 15, 1994
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law Date: February 15, 1994

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FISCAL NOTE

No. 4
 Bill Version: HB 527
 (H) Publish Date: 3/9/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: February 15, 1994
 Title: "...extending the maximum period of probation after conviction for certain offenses."
 Sponsor: Rules/Request of Governor
 Requestor: Governor's Office

Department Affected: Department of Law
 BRU: Prosecution
 Component: All
 COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-----------------|-------|-------|-------|-------|-------|-------|
| PERSONAL | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

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

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

FUNDING:

| | | | | | | |
|-----------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/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 (FY94) impact: -0-

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

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: February 15, 1994
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law Date: February 15, 1994

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FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. _____

ANALYSIS CONTINUATION:

This bill amends AS 12.55.090(c) to provide that the maximum period of probation that may be imposed when a defendant is convicted of the felony sex offenses or sexual assault and sexual abuse of a minor is extended from the current maximum period of five years to a maximum period of ten years. This is a post-conviction sentencing provision, and it will therefore not have a fiscal impact on the Department of Law.

FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. _____

ANALYSIS CONTINUATION:

This bill amends AS 12.55.090(c) to provide that the maximum period of probation that may be imposed when a defendant is convicted of the felony sex offenses or sexual assault and sexual abuse of a minor is extended from the current maximum period of five years to a maximum period of ten years. This is a post-conviction sentencing provision, and it will therefore not have a fiscal impact on the Department of Law.

FISCAL NOTE

No. 3
 Bill Version: HB 527
 (H) Publish Date: 3/9/94

**STATE OF ALASKA
 1994 LEGISLATIVE SESSION**

Revision Date: 3/1/94 Dept. Affected: Corrections
 Title: An Act extending the maximum period BRU: ATI
of probation Component: ATI
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO. 694-1884

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |

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

| | | | | | | |
|-------------------------------|---|---|---|---|---|---|
| CHANGE IN REVENUES () | 0 | 0 | 0 | 0 | 0 | 0 |
|-------------------------------|---|---|---|---|---|---|

FUND SOURCE

(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 |

Estimate of any current year (FY94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Because the extended period of probation would be unsupervised, no fiscal impact is expected.

Prepared by: Diane Schenker, Special Assistant *D-S* Phone: 465-4643/786-2147
 Division: Office of the Commissioner Date: 3/1/94
 Approved by Commissioner: J. Frank Prewitt, Jr. *JFP (for)* Date: 3/1/94
 Agency: Department of Corrections

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FISCAL NOTE

No. 3

Bill Version: HB 527

(H) Publish Date: 3/9/94

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

Revision Date: 3/1/94 Dept. Affected: Corrections
 Title: An Act extending the maximum period BRU: ATI
of probation Component: ATI
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO. 694-1884

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |

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

| | | | | | | |
|------------------------|---|---|---|---|---|---|
| CHANGE IN REVENUES () | 0 | 0 | 0 | 0 | 0 | 0 |
|------------------------|---|---|---|---|---|---|

FUND SOURCE

(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 |

Estimate of any current year (FY94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Because the extended period of probation would be unsupervised, no fiscal impact is expected.

Prepared by: Diane Schenker, Special Assistant Phone: 465-4643/786-2147
 Division: Office of the Commissioner Date: 3/1/94
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 3/1/94
 Agency: Department of Corrections

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FISCAL NOTE

No. 2
 Bill Version: HB 527
 (H) Publish Date: 3/9/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL :

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Extending the Maximum Period of Probation
for Certain Sex Offenses." BFL: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|-------------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-------------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

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 Use Date: 2/16/94
 Agency: Administration

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FISCAL NOTE

No. 2
 Bill Version: HB 527
 (H) Publish Date: 3/9/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL:

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Extending the Maximum Period of Probation
for Certain Sex Offenses." BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|-------------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-------------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

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 Useff Date: 2/16/94
 Agency: Administration

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COMMITTEE COPY

FISCAL NOTE

No. 1
 Bill Version: HB 527
 (H) Publish Date: 3/9/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Extending the Maximum Period of Probation for Certain Sex Offenses." BALE Public Defender Agency
 Component: Public Defender Agency
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____
 Approved by Commissioner: Nancy Bear Usara Date: 2/18/94
 Agency: Administration

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FISCAL NOTE

No. 1
 Bill Version: HB 527
 (H) Publish Date: 3/9/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Extending the Maximum Period of Probation BFL Public Defender Agency
for Certain Sex Offenses." Component: Public Defender Agency
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____
 Approved by Commissioner: Nancy Bear Usra Date: 2/18/94
 Agency: Administration

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**GOVERNOR HICKEL'S
BILL TO EXTEND PROBATION FOR SEX
OFFENDERS
(HB 527)**

Governor Hickel's proposed legislation would extend the maximum period of probation that may be imposed when a criminal is convicted of rape or child sexual molestation.

Current law allows a maximum period of probation of only five years. This bill increases that time period to ten years for the offenses of sexual abuse of a minor. The additional period of probation will be unsupervised, unless the defendant's probation was revoked during the first five years for having violated the conditions of probation.

Among other benefits, this simple proposal would help protect Alaska's children and others from family violence. For example, right now many convicted child abusers or molesters finish serving their prison sentences while their own young children (who are most at risk from repeat violence) are still children. Because current law limits probation to only five years, the courts only have a maximum of five years of "control" over a released felon.

Alaska's prisons don't have enough money to lock up all these offenders forever. But by simply extending the allowable period of probation to up to ten years for sex offenders, we can give the courts the tool they need to "hang a hammer" over the head of released child abusers for a long, long time--long enough for most of their kids to grow up and become safe, independent adults--and do so without the more expensive costs of full-time incarceration.

Proposals like this have been pending in the legislature during the past several years, sponsored by Senator Donley and others. The proposal is supported by both prosecutors and defense lawyers, and should be acted upon this session.

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WALTER J. HICKEL
GOVERNOR



Law 0037
P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 527

March 9, 1994

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99601-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill extending the maximum period of probation that may be imposed when a defendant is convicted of a felony sex offense. Current law allows a maximum period of probation of only five years. This bill increases that time period to 10 years for the felony offenses of sexual assault and sexual abuse of a minor.

Among other benefits, this simple proposal will help protect Alaska's children and others from sexual assault or abuse because it will allow the courts to impose a longer period of probation for these defendants. If the defendant completes the first five years of probation without violating the terms set by the court, the additional probationary period will be unsupervised. If, however, the defendant demonstrates an inability to comply with the court's conditions, the additional probationary period will be supervised.

We can't lock all these offenders up forever. But by simply extending the allowable period of probation to up to 10 years for these felony offenses, we can give the courts the tool they need to monitor these offenders longer in order to better protect the public, without the more expensive costs of full-time incarceration.

Proposals like this have been pending in the legislature during the past several years. It is generally supported by both prosecutors and defense lawyers, and should be acted upon this session.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel
Governor

WALTER J. HICKEL
GOVERNOR



Law 0037
P O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 527

March 9, 1994

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

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Proposals like this have been pending in the legislature during the past several years. It is generally supported by both prosecutors and defense lawyers, and should be acted upon this session.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel
Governor

HOUSE BILL NO. 527

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/9/94
Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the maximum period of probation after conviction for certain
2 offenses."

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

4 * Section 1. AS 12.55.090(c) is amended to read:

5 (c) The period of probation, together with any extension, may [SHALL] not
6 exceed five years, except that for a conviction under AS 11.41.410 - 11.41.438, the
7 period of probation, together with any extension, may not exceed 10 years. Upon
8 completion of five years' probation without revocation, any remaining period of
9 probation shall be unsupervised.

may

HOUSE BILL NO. 527

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/9/94

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

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7 period of probation, together with any extension, may not exceed 10 years. Upon
8 completion of five years' probation without revocation, any remaining period of
9 probation shall be unsupervised.

may

**GOVERNOR HICKEL'S
FAIR JURY SELECTION BILL
(SB 353 & HB 528)**

The American Bar Association (ABA) Standard No. 15-2.6 provides that--in trials involving just one defendant (as is the case in the vast majority of Alaska trials)--the prosecution and the defense should have the same number of jury challenges.

This bill would bring Alaska into conformity with those national standards.

At present, during jury selection in all rape, domestic violence and other felony trials, criminal defense lawyers are permitted to preempt ten jurors they consider unfavorable to their case, while prosecutors only are permitted to challenge six. This balances the scales unfairly, tilting jury selection in favor of criminal defendants.

Governor Hickel's proposed legislation would amend Alaska Rule of Criminal Procedure 24(d) to equalize the number of peremptory challenges that prosecutors and defendants have in jury trials. This legislation can help level the playing field in criminal prosecutions, reduce the cost of criminal trials, and give the State a reasonable chance to do its job to protect the public.

Alaska's laws should be brought in keeping with national standards--and, at least initially, provide both sides with the same number of challenges. Acting to level the playing field in this way would not serve to deprive any defendant of the protections already afforded under Alaska law. Under the proposed Rule, Alaska's courts would continue to have the option of granting defendants additional challenges in cases where it is merited (such as trials involving multiple defendants).

**GOVERNOR HICKEL'S
FAIR JURY SELECTION BILL
(SB 353 & HB 528)**

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WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Law 0038
P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

HB 528

March 9, 1994

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to peremptory challenges of jurors in felony criminal proceedings. During jury selection for felony trials, such as for murder, sexual assault, domestic violence, or child abuse, peremptory challenges are used by both prosecutors and defense lawyers to remove potential jurors from the case in an effort to obtain a fair jury to hear the case. But current court rules allow criminal defendants to peremptorily challenge 10 jurors without stating a cause, while prosecutors are only permitted to challenge six on this basis. This difference in the court rules balances the scales unfairly, tilting jury selection in favor of criminal defendants.

This bill will amend Alaska Rule of Criminal Procedure 24(d) to give prosecutors and defendants the same number of peremptory challenges in jury trials in felony criminal cases. This bill will help level the playing field in criminal prosecutions when trying to pick a fair jury to hear a criminal case. Also, allowing both sides six peremptory challenges may reduce the cost of criminal trials by reducing the time needed for jury selection.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel
Governor

WALTER J. HICKEL
GOVERNOR



Law 0038
P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

HB 528

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 1994

*The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Speaker Barnes:

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I urge your favorable action on this bill.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel
Governor

HOUSE BILL NO. 528

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/9/94

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act amending Alaska Rule of Criminal Procedure 24(d) relating to
 2 peremptory challenges of jurors in felony criminal proceedings."

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

4 * Section 1. Alaska Rule of Criminal Procedure 24(d) is amended to read:

5 (d) PEREMPTORY CHALLENGES. A party who waives peremptory
 6 challenge as to the jurors in the box does not thereby lose the challenge but may
 7 exercise it as to new jurors who may be called. A juror peremptorily challenged is
 8 excused without cause. If the offense is punishable by imprisonment for more than
 9 one year, each side [THE STATE] is entitled to ~~6~~ peremptory challenges [AND THE
 10 DEFENDANT OR DEFENDANTS JOINTLY TO 10 PEREMPTORY
 11 CHALLENGES]. If the offense charged is punishable by imprisonment for not more
 12 than one year, or by fine or both, each side is entitled to 3 peremptory challenges. If
 13 there is more than one defendant, the court may allow the defendants additional
 14 peremptory challenges and permit them to be exercised separately or jointly.

HOUSE BILL NO. 528

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/9/94

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act amending Alaska Rule of Criminal Procedure 24(d) relating to
 2 peremptory challenges of jurors in felony criminal proceedings."

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

4 * Section 1. Alaska Rule of Criminal Procedure 24(d) is amended to read:

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 6 challenge as to the jurors in the box does not thereby lose the challenge but may
 7 exercise it as to new jurors who may be called. A juror peremptorily challenged is
 8 excused without cause. If the offense is punishable by imprisonment for more than
 9 one year, each side [THE STATE] is entitled to ~~6~~ peremptory challenges [AND THE
 10 DEFENDANT OR DEFENDANTS JOINTLY TO 10 PEREMPTORY
 11 CHALLENGES]. If the offense charged is punishable by imprisonment for not more
 12 than one year, or by fine or both, each side is entitled to 3 peremptory challenges. If
 13 there is more than one defendant, the court may allow the defendants additional
 14 peremptory challenges and permit them to be exercised separately or jointly.

- 1 * Sec. 2. This Act takes effect only if sec. 1 of this Act receives the two-thirds majority
- 2 vote of each house required by art. IV, sec. 15, of the Constitution of the State of Alaska.

1 * Sec. 2. This Act takes effect only if sec. 1 of this Act receives the two-thirds majority
2 vote of each house required by art. IV, sec. 15, of the Constitution of the State of Alaska.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 4
 BILL I Bill Version: HB 528
 (H) Publish Date: 3/9/94

Revision Date: _____ Dept. Affected: Public Safety
 Title: Relating to Peremptory Challenges of Jurors in BRU: Alaska State Troopers
felony Proceedings Component: Detachments
 Sponsor: Rules by Request
 Requestor: Governor COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-------------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL EXPENDITURES | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES () | -0- | -0- | -0- | -0- | -0- | -0- |
| <small>Revenue Code</small> | | | | | | |

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- |

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Office of the Commissioner Date: 2/16/94
 Approved by Commissioner:  Date: _____
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 4
 BILL 1 Bill Version: HB 528
 (H) Publish Date: 3/9/94

Revision Date: _____ Dept. Affected: Public Safety
 Title: Relating to Peremptory Challenges of Jurors in BRU: Alaska State Troopers
felony Proceedings Component: Detachments
 Sponsor: Rules by Request
 Requestor: Governor COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-------------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL EXPENDITURES | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES () | -0- | -0- | -0- | -0- | -0- | -0- |
| <small>Revenue Code</small> | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1008 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Office of the Commissioner Date: 2/16/94
 Approved by Commissioner: *[Signature]* Da
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

Bill Version: HB 528
 (H) Publish Date: 3/9/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: February 15, 1994
 Title: "...relating to peremptory challenges of jurors in felony criminal proceedings."
 Sponsor: Rules/Request of Governor
 Requestor: Governor's Office

Department Affected: Department of Law
 BRU: Prosecution
 Component: All
 COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-----------------|-------|-------|-------|-------|-------|-------|
| PERSONAL | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

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

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

FUNDING:

| | | | | | | |
|-----------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/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 (FY94) impact: -0-

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

Richard I. Pegues

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

Phone: 465-3672
 Date: February 15, 1994

Approved by Commissioner: Bruce M. Bordho, Attorney General
 Agency: Department of Law

Date: February 15, 1994

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FISCAL NOTE

Bill Version: HB 528
 (H) Publish Date: 3/9/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: February 15, 1994
 Title: "...relating to peremptory challenges of jurors in felony criminal proceedings."
 Sponsor: Rules/Request of Governor
 Requestor: Governor's Office

Department Affected: Department of Law
 BRU: Prosecution
 Component: All
 COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-----------------|-------|-------|-------|-------|-------|-------|
| PERSONAL | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

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

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

FUNDING:

| | | | | | | |
|-----------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/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 (FY94) impact: -0-

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

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

Phone: 465-3672
 Date: February 15, 1994

Approved by Commissioner: Bruce M. Borzillo, Attorney General
 Agency: Department of Law

Date: February 15, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS CONTINUATION:

This bill amends the Alaska Rule of Criminal Procedure 24(d) to provide that each side in a felony criminal proceeding is allowed six peremptory challenges. Rule 24(d) currently allows the defense ten peremptory challenges and allows the prosecution six peremptory challenges. This rule, which is intended to help level the playing field in criminal prosecutions when trying to select a fair jury to hear a criminal case, will not have a fiscal impact on the Department of Law. We also note that allowing both sides six peremptory challenges may reduce the cost of criminal trials by reducing the time needed for jury selection.

FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. _____

ANALYSIS CONTINUATION:

This bill amends the Alaska Rule of Criminal Procedure 24(d) to provide that each side in a felony criminal proceeding is allowed six peremptory challenges. Rule 24(d) currently allows the defense ten peremptory challenges and allows the prosecution six peremptory challenges. This rule, which is intended to help level the playing field in criminal prosecutions when trying to select a fair jury to hear a criminal case, will not have a fiscal impact on the Department of Law. We also note that allowing both sides six peremptory challenges may reduce the cost of criminal trials by reducing the time needed for jury selection.

FISCAL NOTE

No. 2
 Bill Version: HB 528
 (H) Publish Date: 3/9/94

**STATE OF ALASKA
 1994 LEGISLATIVE SESSION**

BILL :

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Relating to Peremptory Challenges
of Jurors in Felony Criminal Cases." BFL: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|-------------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-------------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

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 Useem Date: 2/16/94
 Agency: Administration

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FISCAL NOTE

No. 2
 Bill Version: HB 528
 (H) Publish Date: 3/9/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL :

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Relating to Peremptory Challenges BPU: Office of Public Advocacy
of Jurors in Felony Criminal Cases." Component: Office of Public Advocacy
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|-------------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-------------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

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 Usery Date: 2/10/94
 Agency: Administration

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FISCAL NOTE

No. 1

Bill Version: HB 528

(H) Publish Date: 3/9/94

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL:

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Relating to Peremptory Challenges
of Jurors in Felony Criminal Cases." BRU: Public Defender Agency
 Component: Public Defender Agency
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|-------------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-------------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PT-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____
 Approved by Commissioner: Nancy Bear Usura Date: 2/17/94
 Agency: Administration

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FISCAL NOTE

No. 1

Bill Version: HB 528

(H) Publish Date: 3/9/94

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL:

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act Relating to Peremptory Challenges BFL: Public Defender Agency
of Jurors in Felony Criminal Cases." Component: Public Defender Agency
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|------------|------------|------------|------------|------------|------------|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|------------|------------|------------|------------|------------|------------|

| | | | | | | |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-------------------------------|------------|------------|------------|------------|------------|------------|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____
 Approved by Commissioner: Nancy Bear Usura Date: 2/17/94
 Agency: Administration

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 331

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to claims on PFD's for BRU: Public Assistance Administration
defaulted public assistance overpayments Component: PA Administration
 Sponsor: Toohey
 Requestor: _____ COMPONENT SERIAL NO. 233

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|---------------------|-----|-----|------|-----|-----|-----|
| REVENUE FUND SOURCE | 3.4 | 4.1 | 11.3 | 9.0 | 9.0 | 8.1 |
|---------------------|-----|-----|------|-----|-----|-----|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Jan L. Hansen, Director
 Division: Division of Public Assistance
 Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S
 Agency: Department of Health & Social Services

Phone: 465-2680
 Date: 1/25/94
 Date: 1-25-94

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 For further information, contact the _____ Office

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 331

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to claims on PFD's for BRU: Public Assistance Administration
defaulted public assistance overpayments Component: PA Administration
 Sponsor: Toohy
 Requestor: _____ COMPONENT SERIAL NO. 233

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|---------------------|-----|-----|------|-----|-----|-----|
| REVENUE FUND SOURCE | 3.4 | 4.1 | 11.3 | 9.0 | 9.0 | 8.1 |
|---------------------|-----|-----|------|-----|-----|-----|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Jan L. Hansen, Director
 Division: Division of Public Assistance
 Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S
 Agency: Department of Health & Social Services

Phone: 465-2680
 Date: 1/25/94
 Date: 1-25-94

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ANALYSIS (cont.):

HB 331 amends existing statutes to provide authority for the Department of Health and Social Services to collect delinquent public assistance overpayment debts by administrative garnishment of Permanent Fund dividends. This legislation results in increased debt collection by the Division of Public Assistance

Food Stamp Program overpayment collections generate revenue to the State. Although food stamps are 100 percent federally funded, states are allowed to retain collection incentives of 10 percent of recoveries of overpayments caused by inadvertent household error and 25 percent of recoveries of payments caused by recipient fraud. These recovery incentives will increase to 25 and 50 percent respectively in October, 1995.

Assumptions:

- All revenues are collected against prior years' costs
- Average state retention rate = 15 percent in FY95 and FY96
- Average state retention rate = 30 percent in FY97 through FY00
- State retentions are applied as GF receipts
- Balance after state retention is returned directly to the federal government
- State portion of recoveries is applied against prior years' costs for Public Assistance Administration
- Collections will rise in the first 3 years, then decline as backlog of existing claims is cleared

Collections:

| | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|-----------------------|------|------|------|------|------|------|
| Claims collections | 90 | 90 | 125 | 100 | 100 | 90 |
| Total Collected | 22.5 | 27.0 | 37.5 | 30.0 | 30.0 | 27.0 |
| Increased GF Receipts | 3.4 | 4.1 | 11.3 | 9.0 | 9.0 | 8.1 |

ANALYSIS (cont.):

HB 331 amends existing statutes to provide authority for the Department of Health and Social Services to collect delinquent public assistance overpayment debts by administrative garnishment of Permanent Fund dividends. This legislation results in increased debt collection by the Division of Public Assistance

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- Average state retention rate = 30 percent in FY97 through FY00
- State retentions are applied as GF receipts
- Balance after state retention is returned directly to the federal government
- State portion of recoveries is applied against prior years' costs for Public Assistance Administration
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Collections:

| | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|-----------------------|------|------|------|------|------|------|
| Claims collections | 90 | 90 | 125 | 100 | 100 | 90 |
| Total Collected | 22.5 | 27.0 | 37.5 | 30.0 | 30.0 | 27.0 |
| Increased GF Receipts | 3.4 | 4.1 | 11.3 | 9.0 | 9.0 | 8.1 |

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 331

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to claims on PFDs for BRU: Public Assistance Administration
defaulted public assistance overpayments Component: AFDC
 Sponsor: Toohy
 Requestor: _____ COMPONENT SERIAL NO. 0220

Expenditures/Revenues:

(Thousands of Dollars)

| OPERATING | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|---------------------|------|------|------|------|------|------|
| REVENUE FUND SOURCE | 16.5 | 24.7 | 27.5 | 22.0 | 22.0 | 20.6 |
|---------------------|------|------|------|------|------|------|

FUNDING:

(Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Jan L. Hansen, Director
 Division: Division of Public Assistance
 Approved by Commissioner: Margaret R. Lowe
 Agency: Department of Health & Social Services

Phone: 465-2680
 Date: 1/25/94
 Date: 1-25-94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 331

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to claims on PFDs for BRU: Public Assistance Administration
defaulted public assistance overpayments Component: AFDC
 Sponsor: Toohcy
 Requestor: _____ COMPONENT SERIAL NO. 0220

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|---------------------|------|------|------|------|------|------|
| REVENUE FUND SOURCE | 16.5 | 24.7 | 27.5 | 22.0 | 22.0 | 20.6 |
|---------------------|------|------|------|------|------|------|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Jan L. Hansen, Director
 Division: Division of Public Assistance
 Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S
 Agency: Department of Health & Social Services

Phone: 465-2680
 Date: 1/25/94
 Date: 1-25-94

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ANALYSIS (cont.):

HB 331 amends existing statutes to provide authority for the Department of Health and Social Services to collect delinquent public assistance overpayment debts by administrative garnishment of Permanent Fund dividends. This legislation results in increased debt collection by the Division of Public Assistance.

AFDC benefits are 50 percent state/50 percent federally funded. When the State recovers AFDC overpayments, it returns the federal share to the federal government and retains the state share.

Assumptions:

- All revenues are collections against prior years' costs
- The state retains 50 percent of AFDC collections as General Fund receipts
- 50 percent of AFDC collections are returned directly to the federal government
- Average claim collection via PFD garnishment = \$550
- Collections will rise in the first 3 years, then decline as backlog of delinquent claims is cleared.

Calculations:

| | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|-----------------------|------|------|------|------|------|------|
| Claims collections | 60 | 90 | 100 | 80 | 80 | 75 |
| Total collected | 33.0 | 49.5 | 55.0 | 44.0 | 44.0 | 41.3 |
| Increased GF Receipts | 16.5 | 24.7 | 27.5 | 22.0 | 22.0 | 20.6 |

ANALYSIS (cont.):

HB 331 amends existing statutes to provide authority for the Department of Health and Social Services to collect delinquent public assistance overpayment debts by administrative garnishment of Permanent Fund dividends. This legislation results in increased debt collection by the Division of Public Assistance.

AFDC benefits are 50 percent state/50 percent federally funded. When the State recovers AFDC overpayments, it returns the federal share to the federal government and retains the state share.

Assumptions:

- All revenues are collections against prior years' costs
- The state retains 50 percent of AFDC collections as General Fund receipts
- 50 percent of AFDC collections are returned directly to the federal government
- Average claim collection via PFD garnishment = \$550
- Collections will rise in the first 3 years, then decline as backlog of delinquent claims is cleared.

Calculations:

| | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|-----------------------|------|------|------|------|------|------|
| Claims collections | 60 | 90 | 100 | 80 | 80 | 75 |
| Total collected | 33.0 | 49.5 | 55.0 | 44.0 | 44.0 | 41.3 |
| Increased GF Receipts | 16.5 | 24.7 | 27.5 | 22.0 | 22.0 | 20.6 |

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 331

Revision Date: _____ Dept. Affected: Revenue
 Title: Use PFD's to recover welfare overpayments BRU: Permanent Fund Dividend
 Component: Permanent Fund Dividend
 Sponsor: TOOHEY
 Requestor: House Judiciary COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |

REVENUE FUND SOURCE: _____

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS:

This Legislation would establish a procedure for serving attachments against dividends that is virtually identical to the process currently in place under AS 43.23.067 for the Alaska Commission on Postsecondary Education. Accordingly, the Division does not anticipate any significant additional costs to implement this legislation if enacted.

Prepared by: Thomas C. Williams *Thomas Williams* Phone: 465-2323
 Division: Permanent Fund Dividend Date: 01/19/94
 Approved by Commissioner: [Signature] Date: 1/21/94
 Agency: Department of Revenue

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 331

| | |
|---|---|
| Revision Date: | Dept. Affected: <u>Revenue</u> |
| Title: <u>Use PFD's to recover welfare overpayments</u> | BRU: <u>Permanent Fund Dividend</u> |
| Sponsor: <u>TOOHEY</u> | Component: <u>Permanent Fund Dividend</u> |
| Requestor: <u>House Judiciary</u> | COMPONENT SERIAL NO. <u>981</u> |

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------|------|------|------|------|------|
| 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 | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |

REVENUE FUND SOURCE:

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS:

This Legislation would establish a procedure for serving attachments against dividends that is virtually identical to the process currently in place under AS 43.23.067 for the Alaska Commission on Postsecondary Education. Accordingly, the Division does not anticipate any significant additional costs to implement this legislation if enacted.

| | | |
|---------------------------|--|------------------------|
| Prepared by: | <u>Thomas C. Williams</u> <i>Thomas Williams</i> | Phone: <u>465-2323</u> |
| Division: | <u>Permanent Fund Dividend</u> | Date: <u>01/19/94</u> |
| Approved by Commissioner: | <i>[Signature]</i> | Date: <u>1/21/94</u> |
| Agency: | <u>Department of Revenue</u> | |

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Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

House Bill 331

"An Act relating to claims on permanent fund dividends for defaulted public assistance overpayments"

House Bill 331 would give the Department of Health and Social Services the administrative authority to garnish permanent fund dividends of individuals who have received public assistance overpayments and are delinquent in repaying the debt.

Frequently persons receiving overpayments agree to repay the debt, but fail to do so. If a person is still on public assistance, the person's benefit can be reduced as a means of collection, but if a person is off assistance, collection becomes difficult. The Department currently has over \$1 million in delinquent debt.

Collection through the court system can be time-consuming and costly. House Bill 331 would allow the Department to pursue collection in the same manner that delinquent student loans are pursued.

The bill has the support of the Department and two positive fiscal notes from DHSS. It has an additional zero fiscal note from the Department of Revenue.

Your co-sponsorship and support would be appreciated.

SPONSOR STATEMENT



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

House Bill 331

"An Act relating to claims on permanent fund dividends for defaulted public assistance overpayments"

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The bill has the support of the Department and two positive fiscal notes from DHSS. It has an additional zero fiscal note from the Department of Revenue.

Your co-sponsorship and support would be appreciated.

SPONSOR STATEMENT

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

January 31, 1994

SUBJECT: Claims on permanent fund dividends for defaulted public assistance overpayments (HB 331)

TO: Representative Cynthia Toohey

FROM: Tamara Brandt Cook
Director *TBC*

JAN 31 1994

Here is the sectional summary you requested.

Sec. 1. The Alaska Exemptions Act (AS 09.38) does not apply to permanent fund dividends taken to satisfy the balance due on a defaulted public assistance overpayment claim. The provisions dealing with execution on claims do not apply and a method of executing on a dividend is set out.

Sec. 2. The permanent fund dividend of a current or former recipient of a public assistance program may be taken to satisfy the balance due on a defaulted overpayment claim.

TBC:mi
94-022.mai

SECTIONAL ANALYSIS

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

January 31, 1994

SUBJECT: Claims on permanent fund dividends for defaulted public assistance overpayments (HB 331)

TO: Representative Cynthia Toohey

FROM: Tamara Brandt Cook
Director *TBC*

JAN 31 1994

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Sec. 2. The permanent fund dividend of a current or former recipient of a public assistance program may be taken to satisfy the balance due on a defaulted overpayment claim.

TBC:mi
94-022.mai

POSITION PAPER

House Bill 331

"An Act relating to claims on permanent fund dividends for defaulted public assistance overpayments."

House Bill 331 provides authority for the Department of Health and Social Services to collect delinquent public assistance overpayment debts by administrative garnishment of Permanent Fund dividends.

Section 1 of the bill adds a new section 43.23.068 to the Permanent Fund dividend statutes to establish procedures for the execution of claims. Section 2 adds a new subsection to the public assistance statutes to provide the authority to make claims against dividend payments in order to recover public assistance overpayments that have fallen into default.

When an individual receives more food stamps or Aid to Families with Dependent Children than they are entitled to, the Division of Public Assistance establishes a claim to recover the debt. The majority of overpayment claims are due to non-fraudulent client errors. Some are due to fraud or agency mistakes. Most overpayments are recovered by reducing the household's monthly benefits by a fixed percentage until the debt is repaid. When a person goes off public assistance while still owing on a claim, debt collection often becomes difficult.

Claiming all or part of the Permanent Fund dividend is a cost-effective way to recover overpayments from persons who refuse to agree to a repayment plan, or fail to make scheduled payments. This is a proven collection method used successfully by other agencies to collect debts such as delinquent child support and student loan payments.

The ability to claim dividends on delinquent accounts will increase collections and generate revenue for the state, and gives DHSS a stronger hand in dealing with delinquent debt collection. Some individuals may choose to resume regular debt payment rather than lose their dividends. The bill assures ample protection of the rights of individuals whose dividends may be taken.

No additional DHSS staff will be needed to initiate claims on dividends. The process promises to be a simpler and cheaper debt collection method than small claims court or civil litigation. HB 331 gives the Department a simple and effective tool to improve welfare program accountability. It offers a better way to collect debts from former recipients who fail to repay the state for the benefits they received incorrectly.

POSITION PAPER

STATE OF ALASKA * DEPARTMENT OF HEALTH & SOCIAL SERVICES

POSITION PAPER

House Bill 331

"An Act relating to claims on permanent fund dividends for defaulted public assistance overpayments."

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Position Paper
HB 331
Page 2

The Department of Health and Social Services strongly supports House Bill No. 331.

Jan L. Hansen
Jan L. Hansen, Director
Division of Public Assistance
Department of Health and
Social Services
1/25/94
Date

Margaret R. Lowe
Margaret R. Lowe, M.Ed., Ed.S.
Commissioner
Department of Health and
Social Services
1-25-94
Date

POSITION PAPER
STATE OF ALASKA * DEPARTMENT OF HEALTH & SOCIAL SERVICE

Position Paper
HB 331
Page 2

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Statement of Support/Opposition

House Bill 331, "An Act relating to claims on permanent fund dividends for defaulted public assistance overpayments."

The Department of Health and Social Services strongly supports this bill.

No opposition is known or anticipated.

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House Bill 331, "An Act relating to claims on permanent fund dividends for defaulted public assistance overpayments."

The Department of Health and Social Services strongly supports this bill.

No opposition is known or anticipated.

Sec. 43.23.067. Claims of defaulted scholarship loans. (a) AS 09.38 does not apply to permanent fund dividends taken under AS 14.43.120(i). Notwithstanding AS 09.35, execution on a claim under AS 14.43.120(i) is accomplished by delivering a certified claim to the department containing the following information:

(1) the name and social security number of the individual whose dividend is being claimed;

(2) the amount the individual owes on the scholarship loan; and

(3) a statement that

(A) the debt has not been contested, or, if contested, that the issue has been resolved in favor of the Alaska Commission on Postsecondary Education; and

(B) if the debt has been contested and resolved in favor of the Alaska Commission on Postsecondary Education, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the commission.

(b) The Alaska Commission on Postsecondary Education shall notify the individual of a claim under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim; and

(2) notice that the amount of the permanent fund dividend that does not exceed the amount of the claim shall be paid to the Alaska Commission on Postsecondary Education unless the commission releases the claim or the individual requests a hearing within 30 days after the date the notice is sent by the commission.

(c) AS 44.62.330 — 44.62.630 apply to a hearing requested by an individual under (b)(2) of this section. (§ 18 ch 92 SLA 1987; am §§ 5, 6 ch 52 SLA 1992)

Effect of amendments. — The 1992 amendment, effective June 11, 1992, in subsection (b), rewrote the first sentence

and substituted "commission" for "department" in paragraph (2); and rewrote subsection (c).

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H B

3 3 4

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 334

Revision Date: _____
Title: "An Act relating to mandatory life imprisonment..."
Sponsor: Rep. Bunde
Requestor: _____

Dept. Affected: Corrections
BRU: all
Component: all
COMPONENT SERIAL NO. 694 - 1884

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|------------------------|----------|----------|----------|----------|--------------|--------------|
| 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 | 412.5 | 824.9 |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 412.5 | 824.9 |

| | | | | | | |
|-----------------------------|----------------|----------|----------|----------|----------|----------|
| CAPITAL EXPENDITURES | 3,200.0 | 0 | 0 | 0 | 0 | 0 |
|-----------------------------|----------------|----------|----------|----------|----------|----------|

| | | | | | | |
|-------------------------------|----------|----------|----------|----------|----------|----------|
| CHANGE IN REVENUES () | 0 | 0 | 0 | 0 | 0 | 0 |
|-------------------------------|----------|----------|----------|----------|----------|----------|

FUND SOURCE

(Thousands of Dollars)

| | | | | | | |
|--------------------------|----------------|----------|----------|----------|--------------|--------------|
| 1002 Federal Receipts | 0 | 0 | 0 | 0 | 0 | 0 |
| 1003 GF Match | 0 | 0 | 0 | 0 | 0 | 0 |
| 1004 GF | 3,200.0 | 0 | 0 | 0 | 412.5 | 824.9 |
| 1005 GF/Program Receipts | 0 | 0 | 0 | 0 | 0 | 0 |
| 1006 GF/MHTIA | 0 | 0 | 0 | 0 | 0 | 0 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 3,200.0 | 0 | 0 | 0 | 412.5 | 824.9 |

Estimate of any current year (FY94) cost: \$ 0

POSITIONS

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

ANALYSIS:

(Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Diane Schenker, Special Asst. to Commissioner
Division: Office of the Commissioner
Approved by Commissioner: J. Frank Prewitt, Jr.
Agency: Department of Corrections

Phone: 465-3315
Date: 1/8/94

Date: 1-11-94

PREP

LEGISLATIVE OFFICE
Office

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 334

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act relating to mandatory life imprisonment..." BRU: all
 Sponsor: Rep. Bunde Component: all
 Requestor: _____ COMPONENT SERIAL NO. 694 - 1884

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|------------------------|----------|----------|----------|----------|--------------|--------------|
| 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 | 412.5 | 824.9 |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 412.5 | 824.9 |

| | | | | | | |
|-----------------------------|----------------|----------|----------|----------|----------|----------|
| CAPITAL EXPENDITURES | 3,200.0 | 0 | 0 | 0 | 0 | 0 |
|-----------------------------|----------------|----------|----------|----------|----------|----------|

| | | | | | | |
|-------------------------------|----------|----------|----------|----------|----------|----------|
| CHANGE IN REVENUES () | 0 | 0 | 0 | 0 | 0 | 0 |
|-------------------------------|----------|----------|----------|----------|----------|----------|

FUND SOURCE

(Thousands of Dollars)

| | | | | | | |
|--------------------------|----------------|----------|----------|----------|--------------|--------------|
| 1002 Federal Receipts | 0 | 0 | 0 | 0 | 0 | 0 |
| 1003 GF Match | 0 | 0 | 0 | 0 | 0 | 0 |
| 1004 GF | 3,200.0 | 0 | 0 | 0 | 412.5 | 824.9 |
| 1005 GF/Program Receipts | 0 | 0 | 0 | 0 | 0 | 0 |
| 1006 GF/MHTIA | 0 | 0 | 0 | 0 | 0 | 0 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 3,200.0 | 0 | 0 | 0 | 412.5 | 824.9 |

Estimate of any current year (FY94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Diane Schenker, Special Asst. to Commissioner Phone: 465-3315
 Division: Office of the Commissioner Date: 1/8/94
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 1-11-94
 Agency: Department of Corrections

PREP

LEGISLATIVE OFFICE

Office

CORRECTIONS FISCAL NOTE

The bill would mandate a life sentence for an offender's third conviction for a "most serious" felony: any unclassified or Class A felony, or Assault II, Sexual Assault II, Sexual Abuse of a Minor II, or Unlawful Exploitation of a Minor. Offenders sentenced under the bill would not be eligible to earn statutory good time, parole, or other forms of early release. Certain felons would have to be warned of the new law, in writing, upon release from correctional facilities.

Assumptions

1. The bill would require that offenders with convictions for "most serious" felonies be warned, in writing, of the provisions of the law upon release from a correctional center. The department would revise its release policies and procedures to include a form explaining the law. The form would be given to all felons as part of the release procedure, since this would take less time than checking criminal histories for eligibility at the time of release. This cost would be absorbed as part of ongoing policy and form revision and is not reflected in the fiscal note. The increased staff time for this function would probably be offset by staff savings in avoidance of processing furloughs and computing losses and re-earnings of statutory good time, for which these prisoners would not be eligible.
2. According to the department's data, approximately 19% of the prisoners incarcerated on November 4, 1993 had been convicted of three or more felonies. A June 30, 1993 profile indicated that approximately 1,052 (almost 40%) of the prisoners were incarcerated for a "most serious felony." If 19% of those incarcerated for a most serious felony were third-time or higher offenders, there would be 200 offenders currently incarcerated who would be eligible for sentencing under this bill. However, information from the Alaska Judicial Council and from the department's OBSCIS system suggests that only 10% of the felons incarcerated for a most serious felony have been convicted of prior most serious felonies. To check these assumptions, ten cases were randomly selected from the list of prisoners incarcerated for most serious felonies, and criminal histories were checked according to file information. One out of the ten had a prior most serious felony conviction; it is assumed that 10% of those convicted of a most serious felony will qualify for the 99 year sentence under the bill.
4. The 99 year sentence is assumed to be a "life" sentence. The estimated lifespan of a male, by the year 2000, is estimated to be 73.5 years, according to the United States Statistical Abstract. The estimated age at the time of conviction for a most serious felony is estimated to be 28 years, according to the Alaska Judicial Council. Thus, those sentenced under this bill would be incarcerated for 45.5 years, rounded up to 46 years. (Age for males is used, since the prison population is over 95% male.)

The bill would mandate a life sentence for an offender's third conviction for a "most serious" felony: any unclassified or Class A felony, or Assault II, Sexual Assault II, Sexual Abuse of a Minor II, or Unlawful Exploitation of a Minor. Offenders sentenced under the bill would not be eligible to earn statutory good time, parole, or other forms of early release. Certain felons would have to be warned of the new law, in writing, upon release from correctional facilities.

Assumptions

1. The bill would require that offenders with convictions for "most serious" felonies be warned, in writing, of the provisions of the law upon release from a correctional center. The department would revise its release policies and procedures to include a form explaining the law. The form would be given to all felons as part of the release procedure, since this would take less time than checking criminal histories for eligibility at the time of release. This cost would be absorbed as part of ongoing policy and form revision and is not reflected in the fiscal note. The increased staff time for this function would probably be offset by staff savings in avoidance of processing furloughs and computing losses and re-earnings of statutory good time, for which these prisoners would not be eligible.

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5. The estimated length of incarceration for applicable crimes under current law is listed in the table below, with the associated increase based upon sentencing under this bill. The current average lengths of incarceration for unclassified and Class A felonies are based upon data from the department's OBSCIS system on current prisoners. Data from OBSCIS on the average length of sentence for B felonies is not available, so the presumptive sentence of six years for a third conviction is used, less one third of the sentence for statutory good time.

| Offense Category | Current Length of Incarceration | Proposed Incarceration | Difference | % increase |
|---|---------------------------------|------------------------|------------|------------|
| Unclassified: Murder I, Murder II, Kidnapping | over lifespan | over lifespan | 0 | 0 |
| Unclassified: MICS I, SA I, SAM I | 13 years | 46 years | + 33 years | + 354% |
| A felonies | 12 years | 46 years | + 34 years | + 383% |
| B felonies (specified in bill) | 4 years | 46 years | + 42 years | +1150% |

6. The fiscal impact of the bill would occur when a third-time most serious felon reaches what would have been his or her release date under current law, but instead remains incarcerated for life. According to the table above, only those whose third most serious felony is a B felony would be released, under current law, within the six year timeframe measured on page 1 of this fiscal note. Information from the department's OBSCIS system indicates the following average annual number of prisoners sentenced for the B felonies specified in the bill, based upon average intake from 1984 through 1992:

| Most Serious Class B Felony | Average Annual No. of Prisoners Sentenced 1984 -- 1992 | 10% Assumed to Have 2+ Priors |
|----------------------------------|--|-------------------------------|
| Sexual Assault II | 24 | 2.4 |
| Sexual Abuse of a Minor II | 49 | 4.9 |
| Unlawful Exploitation of a Minor | 1 | .1 |
| Assault II | 24 | 2.4 |
| TOTAL | 98 | 9.8 |

5. The estimated length of incarceration for applicable crimes under current law is listed in the table below, with the associated increase based upon sentencing under this bill. The current average lengths of incarceration for unclassified and Class A felonies are based upon data from the department's OBSCIS system on current prisoners. Data from OBSCIS on the average length of sentence for B felonies is not available, so the presumptive sentence of six years for a third conviction is used, less one third of the sentence for statutory good time.

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| TOTAL | 98 | 9.8 |

7. The statewide average cost of incarceration in a state correctional center is \$113 per day. This figure does not include CRC beds, since prisoners under this bill are prohibited from furlough, restitution center placement, etc. This figure includes the standard overhead for medical and administrative costs. This number should be considered to be conservative, since medical expenses for older prisoners doing life sentences are expected to be higher than average. Operating expenses are reflected under "miscellaneous" on page 1 of the fiscal note since the total operating cost involves multiple categories of expenses.

8. The average cost for construction of a maximum security prison bed in Alaska is \$160,000. It is assumed that prisoners sentenced to life will require high security housing. Capital expenses might be reduced if additional beds were purchased under contract, however there are no contract beds currently available in Alaska for prisoners with higher than minimum custody.

9. The correctional system cannot absorb any additional prisoners without additional resources. The system has been operating over emergency capacity throughout the past year. Even when all aspects of the department's current population management plan are achieved, only the current overcrowding will be addressed, not including any additional numbers of inmates caused by new legislation. In addition to posing safety hazards, operating over emergency capacity for prolonged periods may result in fines of up to \$1,000 per day if the department is found in contempt of court for violating population caps.

10. Because a number of crime bills are pending before the legislature this year, it is difficult to predict the total number of beds by which the prison system may need to be increased, and therefore difficult to predict how and where such beds would be added: through new facility construction, facility modification, or contracting. It is not possible to estimate the number of staff positions needed until specific expansion plans are made.

Operating Expenses

An estimated 98 most serious Class B felons would be sentenced to prison during FY95, 96, 97, and 98, under the current or the new law. Assuming 10% would be third time most serious offenders, 9.8 (rounded up to 10) would qualify for the enhanced sentence. Those sentenced in FY95 would be released by the end of FY98, under current law, but would remain incarcerated under the proposed law, for an addition of 10 prisoner-years, or 3,650 prisoner-days in FY99. In FY00, the 10 B felons sentenced in FY96 would remain incarcerated instead of being released, in addition to the still-remaining FY95 batch, for an increase of 20 prisoner-years, or 7,300 prisoner-days:

7. The statewide average cost of incarceration in a state correctional center is \$113 per day. This figure does not include CRC beds, since prisoners under this bill are prohibited from furlough, restitution center placement, etc. This figure includes the standard overhead for medical and administrative costs. This number should be considered to be conservative, since medical expenses for older prisoners doing life sentences are expected to be higher than average. Operating expenses are reflected under "miscellaneous" on page 1 of the fiscal note since the total operating cost involves multiple categories of expenses.

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Fiscal Note/DOC

HB 334

January 8, 1994

Page 5 of 7

FY99: 3,650 prisoner-days X \$113 = \$ 412,450

FY00: 7,300 prisoner-days X \$113 = \$ 824,900

Capital Expenses

In order to accomodate the Class B felons who would be added to the population in FY99 and FY00, 20 additional prison beds would need to be constructed. Assuming time for planning and construction, this would be requested in FY 95.

20 X \$160,000 per maximum bed = \$3,200,000

Expenses Not Reflected on Page 1 of the Fiscal Note

Method 1: This method addresses only the continuing expenses of the most serious B felons, beyond the six year timeframe of the fiscal note. After FY00, 10 additional B felons would continue to accumulate every year until FY41, when the first batch sentenced in FY95 would be assumed to reach the ends of their expected lifespans. This means that approximately 410 (10 X 41 years) B felons would be added to the system under this law, over the course of 41 years beyond those reflected on page 1 of the fiscal note.

410 prisoners X 365 days per year X \$113 per day = \$16,910,450 operating expense

Over 41 years, this would average \$ 412,456 per year in additional operating expense, just for the additional most serious B felons.

Method 2: This method addresses the increased costs of all the categories of offenders whose actual length of stay would be increased under the bill. Although the increases for various categories of offenses would result over varying periods of time, this method arrives at an aggregate increase in population in order to predict future needs for the prison system. It is assumed that 10% of the current population incarcerated for most serious felonies would increase according to the percentage increase in sentence lengths shown in the table under Assumption 5. Murder I, Murder II, and Kidnapping are excluded since the current average sentence already exceeds the expected lifespan.

Fiscal Note/DCC
HB 334
January 8, 1994
Page 5 of 7

FY99: 3,650 prisoner-days X \$113 = \$ 412,450
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Capital Expenses

In order to accomodate the Class B felons who would be added to the population in FY99 and FY00, 20 additional prison beds would need to be constructed. Assuming time for planning and construction, this would be requested in FY 95.

20 X \$160,000 per maximum bed = \$3,200,000

Expenses Not Reflected on Page 1 of the Fiscal Note

Method 1: This method addresses only the continuing expenses of the most serious B felons, beyond the six year timeframe of the fiscal note. After FY00, 10 additional B felons would continue to accumulate every year until FY41, when the first batch sentenced in FY95 would be assumed to reach the ends of their expected lifespans. This means that approximately 410 (10 X 41 years) B felons would be added to the system under this law, over the course of 41 years beyond those reflected on page 1 of the fiscal note.

410 prisoners X 365 days per year X \$113 per day = \$16,910,450 operating expense

Over 41 years, this would average \$ 412,456 per year in additional operating expense, just for the additional most serious B felons.

Method 2: This method addresses the increased costs of all the categories of offenders whose actual length of stay would be increased under the bill. Although the increases for various categories of offenses would result over varying periods of time, this method arrives at an aggregate increase in population in order to predict future needs for the prison system. It is assumed that 10% of the current population incarcerated for most serious felonies would increase according to the percentage increase in sentence lengths shown in the table under Assumption 5. Murder I, Murder II, and Kidnapping are excluded since the current average sentence already exceeds the expected lifespan.

| Offense | Total in DOC on 6/30/93 | 10% (3rd repeaters) | Current Prisoner-days | % sent. length increase | Additional Prisoner-days |
|---------------------------------------|-------------------------|----------------------|-----------------------|-------------------------|--------------------------|
| Unclassified Felonies | | | | | |
| SAM I | 153 | 15.3 | 5,584.5 | X 3.54 | 19,769.1 |
| SA I | 178 | 17.8 | 6,497 | | 22,999.4 |
| MICS I | 9 | .9 | 328.5 | | 1,162.9 |
| TOTAL UNCLASSIFIED | | | | | 43,931.4 |
| Class A Felonies | | | | | |
| Assault I | 57 | 5.7 | 2,080.5 | X 3.83 | 7,968.3 |
| Manslaughter | 28 | 2.8 | 1,022 | | 3,914.3 |
| Robbery I | 101 | 10.1 | 3,686.5 | | 14,119.3 |
| Arson I | 6 | .6 | 219 | | 838.7 |
| Escape I | 2 | .2 | 73 | | 279.6 |
| MIW I | 20 | 2 | 730 | | 2,795.9 |
| TOTAL A FELONIES | | | | | 29,934.1 |
| Class B Most Serious Felonies | | | | | |
| SA II | 48 | 4.8 | 1,752 | X 11.50 | 20,148 |
| SAM II | 113 | 11.3 | 4,124.5 | | 47,431.8 |
| Exploit Minor | 0 | 0 | 0 | | 0 |
| Assault II | 50 | 5 | 1,825 | | 20,987.5 |
| TOTAL B FELONIES | | | | | 88,567.3 |
| TOTAL ADDITIONAL PRISONER-DAYS | | | | | 162,432.8 |

| Offense | Total in DOC on 6/30/93 | 10% (3rd repeaters) | Current Prisoner-days | % sent. length increase | Additional Prisoner-days |
|---------------------------------------|-------------------------|----------------------|-----------------------|-------------------------|--------------------------|
| Unclassified Felonies | | | | | |
| SAM I | 153 | 15.3 | 5,584.5 | X 3.54 | 19,769.1 |
| SA I | 178 | 17.8 | 6,497 | | 22,999.4 |
| MICS I | 9 | .9 | 328.5 | | 1,162.9 |
| TOTAL UNCLASSIFIED | | | | | 43,931.4 |
| Class A Felonies | | | | | |
| Assault I | 57 | 5.7 | 2,080.5 | X 3.83 | 7,968.3 |
| Manslaughter | 28 | 2.8 | 1,022 | | 3,914.3 |
| Robbery I | 101 | 10.1 | 3,686.5 | | 14,119.3 |
| Arson I | 6 | .6 | 219 | | 838.7 |
| Escape I | 2 | .2 | 73 | | 279.6 |
| MIW I | 20 | 2 | 730 | | 2,795.9 |
| TOTAL A FELONIES | | | | | 29,934.1 |
| Class B Most Serious Felonies | | | | | |
| SA II | 48 | 4.8 | 1,752 | X 11.50 | 20,148 |
| SAM II | 113 | 11.3 | 4,124.5 | | 47,431.8 |
| Exploit Minor | 0 | 0 | 0 | | 0 |
| Assault II | 50 | 5 | 1,825 | | 20,987.5 |
| TOTAL B FELONIES | | | | | 88,567.3 |
| TOTAL ADDITIONAL PRISONER-DAYS | | | | | 162,432.8 |

Fiscal Note/DOC

HB 334

January 8, 1994

Page 7 of 7

Method Two suggests that the actual prison population would, over time, increase by 162,433 prisoner-days, or 445 prisoners as a result of the increased sentence lengths required by the bill.

162,433 prisoner-days X \$113 per day = \$18,354,929 operating expenses

445 beds X \$160,000 per maximum bed = \$ 71,200,000 capital expenses

TOTAL ADDITIONAL EXPENSE = \$ 89,554,929

Averaged over the 46 year period it would take to reach the peak accumulation of prisoners, this additional expense would require \$ 1,946,846 additional operating and capital expenditures per year, every year from FY95 through FY41. This estimate does not include any inflation factor, nor does it consider the possibility of an increase in crime rates.

Offsetting this number, it would be expected that some savings might be expected in the Community Corrections component, since most of these prisoners would otherwise have been released and supervised on probation or parole under current law. However, the \$6 average cost per day for this supervision is almost negligible compared to the \$113 cost per day of incarceration, and would only be a factor for a relatively small portion of the total sentence.

Another offsetting factor might be the avoidance of costs of new crimes, probably violent, that these chronic types of offenders might be assumed to commit if they were released, under current law. These savings would be experienced by other agencies and departments through avoidance of arrests, investigations, trials, etc.

Fiscal Note/DOC
HB 334
January 8, 1994
Page 7 of 7

Method Two suggests that the actual prison population would, over time, increase by 162,433 prisoner-days, or 445 prisoners as a result of the increased sentence lengths required by the bill.

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Offsetting this number, it would be expected that some savings might be expected in the Community Corrections component, since most of these prisoners would otherwise have been released and supervised on probation or parole under current law. However, the \$6 average cost per day for this supervision is almost negligible compared to the \$113 cost per day of incarceration, and would only be a factor for a relatively small portion of the total sentence.

Another offsetting factor might be the avoidance of costs of new crimes, probably violent, that these chronic types of offenders might be assumed to commit if they were released, under current law. These savings would be experienced by other agencies and departments through avoidance of arrests, investigations, trials, etc.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 334

Revision Date: February 9, 1994
Title: "...relating to criminal sentencings;... mandatory life imprisonment, parole, good time credit, pardon, commutation..."
Sponsor: Representative Bunde
Requestor: Representative Bunde

Department Affected: Department of Law
BRU: Prosecution
Component: Third District/Fourth District Criminal Appeals and Special Prosecution
COMPONENT SERIAL NO. 0087/0088/0090

EXPENDITURES/REVENUES:

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-----------------|-------|-------|-------|-------|-------|-------|
| PERSONAL | 255.8 | 255.8 | 255.8 | 255.8 | 255.8 | 255.8 |
| TRAVEL | 15.0 | 15.0 | 15.0 | 15.0 | 15.0 | 15.0 |
| CONTRACTUAL | 30.2 | 30.2 | 30.2 | 30.2 | 30.2 | 30.2 |
| SUPPLIES | 9.9 | 9.9 | 9.9 | 9.9 | 9.9 | 9.9 |
| EQUIPMENT | 19.5 | | | | | |
| LAND & | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 330.4 | 310.9 | 310.9 | 310.9 | 310.9 | 310.9 |

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

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

FUNDING:

| | | | | | | |
|-----------------|-------|-------|-------|-------|-------|-------|
| 1002 Federal | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 330.4 | 310.9 | 310.9 | 310.9 | 310.9 | 310.9 |
| 1005 GF/Program | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| OTHER | | | | | | |
| TOTAL | 330.4 | 310.9 | 310.9 | 310.9 | 310.9 | 310.9 |

POSITIONS:

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

Estimate of current year (FY94) 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: Bruce M. Botelho, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: February 9, 1994

Date: February 9, 1994

PREPARER T/ Fc DEPT. OF LAW FISCAL NOTE

GOVERNOR'S LEGISLATIVE OFFICE
Legislative Office

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 334

Revision Date: February 9, 1994

Department Affected: Department of Law

Title: *...relating to criminal sentencings:... mandatory life imprisonment, parole, good time credit, pardon, commutation...*

BRU: Prosecution

Sponsor: Representative Bunde

Component: Third District/Fourth District

Requestor: Representative Bunde

Criminal Appeals and Special Prosecution

COMPONENT SERIAL NO. 0087/0088/0090

EXPENDITURES/REVENUES:

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-----------------|-------|-------|-------|-------|-------|-------|
| PERSONAL | 255.8 | 255.8 | 255.8 | 255.8 | 255.8 | 255.8 |
| TRAVEL | 15.0 | 15.0 | 15.0 | 15.0 | 15.0 | 15.0 |
| CONTRACTUAL | 30.2 | 30.2 | 30.2 | 30.2 | 30.2 | 30.2 |
| SUPPLIES | 9.9 | 9.9 | 9.9 | 9.9 | 9.9 | 9.9 |
| EQUIPMENT | 19.5 | | | | | |
| LAND & | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 330.4 | 310.9 | 310.9 | 310.9 | 310.9 | 310.9 |

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

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

FUNDING:

| | | | | | | |
|-----------------|-------|-------|-------|-------|-------|-------|
| 1002 Federal | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 330.4 | 310.9 | 310.9 | 310.9 | 310.9 | 310.9 |
| 1005 GF/Program | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| OTHER | | | | | | |
| TOTAL | 330.4 | 310.9 | 310.9 | 310.9 | 310.9 | 310.9 |

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director

Phone: 465-3672

Division: Administrative Services Division

Date: February 9, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General

Agency: Department of Law

Date: February 9, 1994

PREPARER T/

FC DEPT. OF LAW FISCAL NOTE

GOVERNOR'S LEGISLATIVE OFFICE
Legislative Office

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 334

ANALYSIS CONTINUATION:

This bill amends Alaska's presumptive sentencing laws, under AS 12.15.125-175, to provide that a defendant convicted of a most serious felony offense shall be sentenced to a mandatory term of imprisonment for 99 years without the possibility of parole if the defendant has been previously convicted of two or more most serious felony offenses.

The bill also amends AS 12.55.185 to provide that "most serious felony" means any unclassified or class A felony or a felony attempt to commit any unclassified or class A felony, assault in the second degree, sexual assault in the second degree, sexual abuse of a minor in the second degree, and unlawful exploitation of a minor.

The bill also provides that imposition of a sentence under the bill's provisions may not be suspended; provides that a person sentenced to a mandatory 99-year term of imprisonment is not eligible for parole and is not eligible for a good time deduction; and provides that furlough of any type may not be granted to a person sentenced to a mandatory 99-year term of imprisonment, except while in the custody of a corrections officer.

The Criminal Justice Working Group believes that prosecution of between ten and thirty defendants will occur each year, where "most serious felony" circumstances are present triggering a mandatory 99-year sentence, probably in the middle, or about 15 cases for this version of the bill, and probably near the upper level, or about 25 cases for the Senate version. Consequently, the Department of Law will be impacted in the following ways. First, because the bill provides for a mandatory 99-year prison term without any chance for reduction, and in many cases the sentence will be more severe than the sentence for first degree murder, the stakes for the defense will be much higher resulting in much more difficult litigation for the prosecution and the defense. Second, the defense can be expected to attack the underlying prior convictions seeking post conviction relief under Criminal Rule 35.1, and seeking relief using collateral habeas corpus attacks in federal court. Litigation disposing of the attacks on the underlying prior convictions must be completed before trial on the third felony triggering the mandatory 99-year prison term can be conducted. Third, defendants can be expected to wage a more vigorous defense (and seldom plead guilty) to any charge included in this bill as a most serious felony offense, because of the consequences of prior convictions. As a result, prosecutor time will increase substantially for both first and, in particular, second most serious felony offense prosecutions.

Prior to adoption of Alaska's new criminal code in 1980, Alaska had a habitual criminal law, which gave prosecutors the option to seek a separate enhanced sentence based on two prior convictions. The former law was triggered after a defendant had served two prior sentences, including two periods of release to demonstrate reformation, and then was convicted of a third offense. However, under the state's current presumptive sentencing provisions, it is possible that a defendant could be sentenced to a mandatory 99-year term after a single period of incarceration and release, if the defendant's convictions included two or more most serious offenses that were joined in a single trial that resulted in consecutive sentences. Because the bill amends the presumptive sentence law there would be no option available unless prosecutors elected to reduce the third charge below the "most serious felony" level. In many cases this would result in an inappropriately low charge and sentence. In view of the number of cases and their high level of difficulty, one new prosecutor each will be needed in Anchorage and Fairbanks, and one new attorney will be needed in the Office of Criminal Appeals and Special Prosecution to handle post-conviction appeals.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 334

ANALYSIS CONTINUATION:

This bill amends Alaska's presumptive sentencing laws, under AS 12.15.125-175, to provide that a defendant convicted of a most serious felony offense shall be sentenced to a mandatory term of imprisonment for 99 years without the possibility of parole if the defendant has been previously convicted of two or more most serious felony offenses.

The bill also amends AS 12.55.185 to provide that "most serious felony" means any unclassified or class A felony or a felony attempt to commit any unclassified or class A felony, assault in the second degree, sexual assault in the second degree, sexual abuse of a minor in the second degree, and unlawful exploitation of a minor.

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 334

ANALYSIS CONTINUATION:

Component Analysis

| | <u>0087</u> <u>Third District</u> | <u>0088</u> <u>Fourth District</u> | <u>0090</u> <u>Crim. Appeals</u> | <u>Total</u> |
|-------------------|--------------------------------------|---------------------------------------|-------------------------------------|--------------|
| Personal Services | 81.7 | 92.4 | 81.7 | 255.8 |
| Travel | 7.5 | 7.5 | 0.0 | 15.0 |
| Contractual | 13.6 | 8.0 | 8.6 | 30.2 |
| Supplies | 3.3 | 3.3 | 3.3 | 9.9 |
| Equipment | <u>6.5</u> | <u>6.5</u> | <u>6.5</u> | <u>19.5</u> |
| Total | 112.6 | 117.7 | 100.1 | 330.4 |

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 334

ANALYSIS CONTINUATION:

Component Analysis

| | <u>0087</u> <u>Third District</u> | <u>0088</u> <u>Fourth District</u> | <u>0090</u> <u>Crim. Appeals</u> | <u>Total</u> |
|-------------------|--------------------------------------|---------------------------------------|-------------------------------------|--------------|
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| Travel | 7.5 | 7.5 | 0.0 | 15.0 |
| Contractual | 13.6 | 8.0 | 8.6 | 30.2 |
| Supplies | 3.3 | 3.3 | 3.3 | 9.9 |
| Equipment | <u>6.5</u> | <u>6.5</u> | <u>6.5</u> | <u>19.5</u> |
| Total | 112.6 | 117.7 | 100.1 | 330.4 |

01/26/94

14:56:24.0

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

DEPARTMENT OF LAW
SCENARIO: 3
COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

BIU NAME: PROSECUTION

| PCH | UNAUTH PCH | JOB CLASS TITLE | T S | LOCATION NAME | R C | D U | S | R&S MOS | SALARY BUDG | PREM PAY | DFES | PER.SRV. COSTS | G. F. AMOUNT |
|-------|---------------|-----------------|--------|---------------|--------|--------|----|------------|----------------|-------------|------|-------------------|-----------------|
| 03/04 | | ATTORNEY IV | | F ANCHORAGE | A | XE | AA | 24A | 12 | 61000 | 0 | 20660 | 01660.60 |

JUSTIFICATION:

MB 334

| | |
|-------------------|----------|
| TRAVEL COSTS | 7500.00 |
| CONTRACTUAL COSTS | 13000.00 |
| SUPPLIES COSTS | 3300.00 |
| EQUIPMENT COSTS | 6500.00 |
| OTHER COSTS | 0.00 |

TOTAL COSTS 112560.60 01660.60

FUNDING DETAIL:

| | |
|----------------------------|----------|
| 1004 GENERAL FUND RECEIPTS | 01660.60 |
| TOTAL FUNDING | 01660.60 |

COMPONENT TOTALS:

| | | | |
|----------------------------------|---|------------------------------|-----------|
| FULL TIME NEW POSITIONS | 1 | TOTAL PERSONAL SERVICES | 01660.60 |
| PART TIME/SEASONAL NEW POSITIONS | 0 | | |
| NON PERMANENT NEW POSITIONS | 0 | TOTAL COSTS INC. ASSOC COSTS | 112560.60 |
| OTHER..... | 0 | | |

NUMBER OF NEW POSITIONS IN COMPONENT: 1

| | |
|----------------------------------|----------|
| FUNDING DATA: G.F. & G.F. MATCH: | 01660.60 |
| OTHER FUNDS: | 0.00 |
| TOTAL FUNDING: | 01660.60 |

01/26/94

14:56:24.0

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

DEPARTMENT OF LAW

SCENARIO: 3

DIV NAME: PROSECUTION

| PCH | UNLATH PCH | JOB CLASS TITLE | T S | LOCATION NAME | R C | D U | S | R&S BUDG | MOS | SALARY | PREM PAY | DEFES | PER.SERV. COSTS | G. F. AMOUNT |
|-------|---------------|-----------------|--------|---------------|--------|--------|----|-------------|-----|--------|-------------|-------|--------------------|-----------------|
| 01/04 | | ATTORNEY IV | F | ANCHORAGE | A | XE | AA | 24A | 12 | 61000 | 0 | 20660 | 01660.60 | |

**** JUSTIFICATION:

HB 334

| | | |
|-------------------|-----------|----------|
| TRAVEL COSTS | 7500.00 | |
| CONTRACTUAL COSTS | 13600.00 | |
| SUPPLIES COSTS | 3300.00 | |
| EQUIPMENT COSTS | 6500.00 | |
| OTHER COSTS | 0.00 | |
| ===== | | |
| TOTAL COSTS | 112560.60 | 01660.60 |

**** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS

01660.60

| | |
|---------------|----------|
| TOTAL FUNDING | 01660.60 |
|---------------|----------|

**** COMPONENT TOTALS:

| | | | |
|----------------------------------|------|------------------------------|-----------|
| FULL TIME NEW POSITIONS | 1 | TOTAL PERSONAL SERVICES | 01660.60 |
| PART TIME/SEASONAL NEW POSITIONS | 0 | | |
| NON PERMANENT NEW POSITIONS | 0 | TOTAL COSTS INC. ASSOC COSTS | 112560.60 |
| OTHER..... | 0 | | |
| | ==== | | |

NUMBER OF NEW POSITIONS IN COMPONENT:

1

| | |
|----------------------------------|----------|
| FUNDING DATA: G.F. & G.F. MATCH: | 01660.60 |
| OTHER FUNDS: | 0.00 |
| ===== | |

| | |
|----------------|----------|
| TOTAL FUNDING: | 01660.60 |
|----------------|----------|

01/20/94

14:56:24.3

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 3

9m

COMPONENT #: 6501020400 NAME: FOURTH JUDICIAL DISTRICT

DEPARTMENT OF LAW

SCENARIO: 3

OBJ NAME: PROSECUTION

| PCN | UNAUTH PCN | JOB CLASS TITLE | T S | LOCATION NAME | R C | P II | S R | R R | MOS BUDG | SALARY | PREM PAY | RENES | PER.SERV. COSTS | G. F. AMOUNT |
|-------|---------------|-----------------|--------|---------------|--------|---------|--------|--------|-------------|--------|-------------|-------|--------------------|-----------------|
| //010 | | ATTORNEY IV | | F FAIRBANKS | A | XE | EE | 24A | 12 | 70092 | 0 | 22353 | 92445.06 | |

** JUSTIFICATION:
Attorney IV-Fairbanks

| | |
|-------------------|------|
| TRAVEL COSTS | 0.00 |
| CONTRACTUAL COSTS | 0.00 |
| SUPPLIES COSTS | 0.00 |
| EQUIPMENT COSTS | 0.00 |
| OTHER COSTS | 0.00 |

TOTAL COSTS 92445.06 92445.06

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 92445.06

TOTAL FUNDING 92445.06

| | | | | | | | | | | | | | | |
|-------|--|-------------|--|-------------|---|----|----|-----|----|-------|---|-------|----------|--|
| //045 | | ATTORNEY IV | | F FAIRBANKS | A | XE | EE | 24A | 12 | 70092 | 0 | 22353 | 92445.06 | |
|-------|--|-------------|--|-------------|---|----|----|-----|----|-------|---|-------|----------|--|

** JUSTIFICATION:

HB 334

| | |
|-------------------|---------|
| TRAVEL COSTS | 7500.00 |
| CONTRACTUAL COSTS | 8000.00 |
| SUPPLIES COSTS | 3300.00 |
| EQUIPMENT COSTS | 6500.00 |
| OTHER COSTS | 0.00 |

TOTAL COSTS 117745.06 92445.06

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 92445.06

TOTAL FUNDING 92445.06

| COMPONENT TOTALS: | |
|----------------------------------|---|
| FULL TIME NEW POSITIONS | 2 |
| PART TIME/SEASONAL NEW POSITIONS | 0 |
| NON PERMANENT NEW POSITIONS | 0 |
| OTHER..... | 0 |
| ===== | |

TOTAL PERSONAL SERVICES 104091.72

TOTAL COSTS INC. ASSOC COSTS 210191.72

NUMBER OF NEW POSITIONS IN COMPONENT: 2

FUNDING DATA: G.F. & G.F. MATCH; 104091.72
OTHER FUNDS; 0.00

TOTAL FUNDING: 104091.72

COMPONENT #: 6501020400 NAME: FOURTH JUDICIAL DISTRICT

DEPARTMENT OF LAW

SCENARIO: 3

ORG NAME: PROSECUTION

| PCN | UNAUTH PCN | JOB CLASS TITLE | T S | LOCATION NAME | R C | P I | S R | R S | MOS BUDG | SALARY | PRFH PAY | RENES | PER SERV. COSTS | G. F. AMOUNT |
|-----|---------------|-----------------|--------|---------------|--------|--------|--------|--------|-------------|--------|-------------|-------|--------------------|-----------------|
|-----|---------------|-----------------|--------|---------------|--------|--------|--------|--------|-------------|--------|-------------|-------|--------------------|-----------------|

| | | | | | | | | | | | | | | |
|-------|--|-------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|--|
| //010 | | ATTORNEY IV | F | FAIRBANKS | A | XE | EE | 24A | 12 | 70092 | 0 | 22353 | 92445.06 | |
|-------|--|-------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|--|

** JUSTIFICATION:
Attorney IV-Fairbanks

| | |
|-------------------|------|
| TRAVEL COSTS | 0.00 |
| CONTRACTUAL COSTS | 0.00 |
| SUPPLIES COSTS | 0.00 |
| EQUIPMENT COSTS | 0.00 |
| OTHER COSTS | 0.00 |

TOTAL COSTS 92445.06 92445.06

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 92445.06

TOTAL FUNDING 92445.06

| | | | | | | | | | | | | | | |
|-------|--|-------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|--|
| //045 | | ATTORNEY IV | F | FAIRBANKS | A | XE | EE | 24A | 12 | 70092 | 0 | 22353 | 92445.06 | |
|-------|--|-------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|--|

** JUSTIFICATION:

HB 334

| | |
|-------------------|---------|
| TRAVEL COSTS | 7500.00 |
| CONTRACTUAL COSTS | 8000.00 |
| SUPPLIES COSTS | 3300.00 |
| EQUIPMENT COSTS | 6500.00 |
| OTHER COSTS | 0.00 |

TOTAL COSTS 117745.06 92445.06

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 92445.06

TOTAL FUNDING 92445.06

COMPONENT TOTALS:

| | |
|----------------------------------|---|
| FULL TIME NEW POSITIONS | 2 |
| PART TIME/SEASONAL NEW POSITIONS | 0 |
| NON PERMANENT NEW POSITIONS | 0 |
| OTHER..... | 0 |
| ===== | |

TOTAL PERSONAL SERVICES 104091.72

TOTAL COSTS INC. ASSOC COSTS 110191.72

NUMBER OF NEW POSITIONS IN COMPONENT: 2

FUNDING RATE: G.F. & G.F. MATCH; 104091.72
OTHER FUNDS; 0.00

TOTAL FUNDING: 104091.72

| UN | UNAUTN | JOB CLASS TITLE | T | LOCATION NAME | R | D | S | R&S | HOS | SALARY | PREM | GENES | PER SERV. | G. F. |
|----|--------|-----------------|---|---------------|---|---|---|-----|------|--------|------|-------|-----------|--------|
| | PCN | | S | | C | U | | | BUDG | | PAY | | COSTS | AMOUNT |

| | | | | | | | | | | | | | | |
|-----|--|-------------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|--|
| 037 | | PARALEGAL ASST II | F | ANCHORAGE | A | GG | 2A | 16A | 12 | 36144 | 0 | 14550 | 51002.32 | |
|-----|--|-------------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|--|

JUSTIFICATION:

Paralegal Assistant II position will be required, during the third year of the capital felony law, to assist the preparation of appellate documentation and research. Four new appeals are expected in the third year, bringing the total to be handled to six. These appeals have an average time span of ten years. Numerous amounts of time must be spent researching the underlying trial records, and preparing legal documents and briefs. A substantial research effort will be required. Allocation to the Paralegal Assistant II level is therefore recommended. This position will be needed in FY 1990.

| | | |
|-------------------|----------|----------|
| TRAVEL COSTS | 0.00 | |
| CONTRACTUAL COSTS | 2700.00 | |
| SUPPLIES COSTS | 4500.00 | |
| EQUIPMENT COSTS | 6500.00 | |
| OTHER COSTS | 0.00 | |
| TOTAL COSTS | 99002.32 | 51002.32 |

FUNDING DETAIL:

| | |
|----------------------------|----------|
| 1004 GENERAL FUND RECEIPTS | 51002.32 |
| TOTAL FUNDING | 51002.32 |

| | | | | | | | | | | | | | | |
|-----|--|-------------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|--|
| 038 | | LEGAL SECRETARY I | F | ANCHORAGE | A | GG | 2A | 10A | 12 | 25140 | 0 | 11645 | 36705.20 | |
|-----|--|-------------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|--|

JUSTIFICATION:

Legal Secretary I will be required, during the third year the capital felony law is in effect; to assist the growing number of post-conviction appellate reviews. It is anticipated that a total of six reviews will be underway at this time, and this number will increase by four reviews each year, thereafter. Each review is about ten years and involves numerous courts, and many court proceedings. Substantial secretarial assistance is needed to handle this work. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 1990.

| | | |
|-------------------|----------|----------|
| TRAVEL COSTS | 0.00 | |
| CONTRACTUAL COSTS | 6000.00 | |
| SUPPLIES COSTS | 2700.00 | |
| EQUIPMENT COSTS | 6500.00 | |
| OTHER COSTS | 0.00 | |
| TOTAL COSTS | 53905.20 | 36705.20 |

FUNDING DETAIL:

| | |
|----------------------------|----------|
| 1004 GENERAL FUND RECEIPTS | 36705.20 |
| TOTAL FUNDING | 36705.20 |

| | | | | | | | | | | | | | | |
|-----|--|-------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|--|
| 046 | | ATTORNEY IV | F | ANCHORAGE | A | XE | AA | 24A | 12 | 61000 | 0 | 20660 | 01660.60 | |
|-----|--|-------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|--|

JUSTIFICATION:

HB 334

| | | |
|-------------------|-----------|----------|
| TRAVEL COSTS | 0.00 | |
| CONTRACTUAL COSTS | 6600.00 | |
| SUPPLIES COSTS | 3300.00 | |
| EQUIPMENT COSTS | 6500.00 | |
| OTHER COSTS | 0.00 | |
| TOTAL COSTS | 100060.60 | 01660.60 |

FUNDING DETAIL:

| | |
|----------------------------|----------|
| 1004 GENERAL FUND RECEIPTS | 01660.60 |
|----------------------------|----------|

| UN AUTH PCN | JOB CLASS TITLE | T S | LOCATION NAME | R D S G II | RBS | MOS BUDG | SALARY | PREM PAY | DEFES | PER. SERV. COSTS | G. F. AMOUNT |
|-------------|-----------------|-----|---------------|------------|-----|----------|--------|----------|-------|------------------|--------------|
|-------------|-----------------|-----|---------------|------------|-----|----------|--------|----------|-------|------------------|--------------|

| | | | | | | | | | | | | |
|-----|-------------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|
| 037 | PARALEGAL ASST II | F | ANCHORAGE | A | GG | 2A | 16A | 12 | 36444 | 0 | 14550 | 51002.32 |
|-----|-------------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|

* JUSTIFICATION:

A Paralegal Assistant II position will be required, during the third year of the capital felony law, to assist the preparation of appellate documentation and research. Four new appeals are expected in the third year, bringing the total to be handled to six. These cases have an average time span of ten years. Significant amounts of time must be spent researching the underlying trial records, and preparing legal arguments and briefs. A substantial amount of research effort will be required. Allocation to the Paralegal Assistant II level is therefore recommended. This position will be needed in FY 1998.

| | |
|--------------------|-----------------|
| TRAVEL COSTS | 0.00 |
| CONTRACTUAL COSTS | 27900.00 |
| SUPPLIES COSTS | 4500.00 |
| EQUIPMENT COSTS | 6500.00 |
| OTHER COSTS | 0.00 |
| TOTAL COSTS | 39200.00 |

*** FUNDING DETAIL:

| | |
|----------------------------|-----------------|
| 1004 GENERAL FUND RECEIPTS | 51002.32 |
| TOTAL FUNDING | 51002.32 |

| | | | | | | | | | | | | |
|-----|-------------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|
| 038 | LEGAL SECRETARY I | F | ANCHORAGE | A | GG | 2A | 10A | 12 | 25140 | 0 | 11645 | 36785.20 |
|-----|-------------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|

* JUSTIFICATION:

A Legal Secretary I will be required, during the third year the capital felony law is in effect, to handle the growing number of post-conviction appellate appeals. It is anticipated that a total of six reviews will be underway at this time, and this number will grow by four reviews, each year, thereafter. Each review is about ten years and involves numerous courts, and many court proceedings. Substantial secretarial assistance will be needed to handle this work. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 1998.

| | |
|--------------------|-----------------|
| TRAVEL COSTS | 0.00 |
| CONTRACTUAL COSTS | 6000.00 |
| SUPPLIES COSTS | 2700.00 |
| EQUIPMENT COSTS | 6500.00 |
| OTHER COSTS | 0.00 |
| TOTAL COSTS | 15200.00 |

*** FUNDING DETAIL:

| | |
|----------------------------|-----------------|
| 1004 GENERAL FUND RECEIPTS | 36785.20 |
| TOTAL FUNDING | 36785.20 |

| | | | | | | | | | | | | |
|-----|-------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|
| 046 | ATTORNEY IV | F | ANCHORAGE | A | XE | AA | 24A | 12 | 61000 | 0 | 20660 | 81660.60 |
|-----|-------------|---|-----------|---|----|----|-----|----|-------|---|-------|----------|

* JUSTIFICATION:

HB 334

| | |
|--------------------|-----------------|
| TRAVEL COSTS | 0.00 |
| CONTRACTUAL COSTS | 8600.00 |
| SUPPLIES COSTS | 3300.00 |
| EQUIPMENT COSTS | 6500.00 |
| OTHER COSTS | 0.00 |
| TOTAL COSTS | 18400.00 |

*** FUNDING DETAIL:

| | |
|----------------------------|-----------------|
| 1004 GENERAL FUND RECEIPTS | 81660.60 |
| TOTAL FUNDING | 81660.60 |

1 AN ACT Relating to persistent offenders; reenacting and amending
2 RCW 9.94A.120 and 9.94A.030; creating new sections; and prescribing
3 penalties.

4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

5 NEW SECTION. Sec. 1. FINDINGS AND INTENT. (1) The people of the
6 state of Washington find and declare that:

7 (a) Community protection from persistent offenders is a priority
8 for any civilized society.

9 (b) Nearly fifty percent of the criminals convicted in Washington
10 state have active prior criminal histories.

11 (c) Punishments for criminal offenses should be proportionate to
12 both the seriousness of the crime and the prior criminal history.

13 (d) The public has the right and the responsibility to determine
14 when to impose a life sentence.

15 (2) By sentencing three-time, most serious offenders to prison for
16 life without the possibility of parole, the people intend to:

17 (a) Improve public safety by placing the most dangerous criminals
18 in prison.

1 AN ACT Relating to persistent offenders; reenacting and amending
2 RCW 9.94A.120 and 9.94A.030; creating new sections; and prescribing
3 penalties.

4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

5 NEW SECTION. Sec. 1. FINDINGS AND INTENT. (1) The people of the
6 state of Washington find and declare that:

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8 for any civilized society.

9 (b) Nearly fifty percent of the criminals convicted in Washington
10 state have active prior criminal histories.

11 (c) Punishments for criminal offenses should be proportionate to
12 both the seriousness of the crime and the prior criminal history.

13 (d) The public has the right and the responsibility to determine
14 when to impose a life sentence.

15 (2) By sentencing three-time, most serious offenders to prison for
16 life without the possibility of parole, the people intend to:

17 (a) Improve public safety by placing the most dangerous criminals
18 in prison.

1 (b) Reduce the number of serious, repeat offenders by tougher
2 sentencing.

3 (c) Set proper and simplified sentencing practices that both the
4 victims and persistent offenders can understand.

5 (d) Restore public trust in our criminal justice system by directly
6 involving the people in the process.

7 Sec. 2. RCW 9.94A.120 and 1992 c 145 s 7, 1992 c 75 s 2, and 1992
8 c 45 s 5 are each reenacted and amended to read as follows:

9 ENFORCEMENT OF MANDATORY MINIMUM SENTENCES. When a person is
10 convicted of a felony, the court shall impose punishment as provided in
11 this section.

12 (1) Except as authorized in subsections (2), (4), (5), and (7) of
13 this section, the court shall impose a sentence within the sentence
14 range for the offense.

15 (2) The court may impose a sentence outside the standard sentence
16 range for that offense if it finds, considering the purpose of this
17 chapter, that there are substantial and compelling reasons justifying
18 an exceptional sentence.

19 (3) Whenever a sentence outside the standard range is imposed, the
20 court shall set forth the reasons for its decision in written findings
21 of fact and conclusions of law. A sentence outside the standard range
22 shall be a determinate sentence.

23 (4) A persistent offender shall be sentenced to a term of total
24 confinement for life without the possibility of parole or, when
25 authorized by RCW 10.95.030 for the crime of aggravated murder in the
26 first degree, sentenced to death, notwithstanding the maximum sentence
27 under any other law. An offender convicted of the crime of murder in
28 the first degree shall be sentenced to a term of total confinement not
29 less than twenty years. An offender convicted of the crime of assault
30 in the first degree or assault of a child in the first degree where the
31 offender used force or means likely to result in death or intended to
32 kill the victim shall be sentenced to a term of total confinement not
33 less than five years. An offender convicted of the crime of rape in
34 the first degree shall be sentenced to a term of total confinement not
35 less than five years(~~(, and shall not be eligible for furlough, work~~
36 ~~release or other authorized leave of absence from the correctional~~
37 ~~facility during such minimum five year term except for the purpose of~~
38 ~~commitment to an inpatient treatment facility)). The foregoing minimum~~

1 (b) Reduce the number of serious, repeat offenders by tougher
2 sentencing.

3 (c) Set proper and simplified sentencing practices that both the
4 victims and persistent offenders can understand.

5 (d) Restore public trust in our criminal justice system by directly
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10 convicted of a felony, the court shall impose punishment as provided in
11 this section.

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14 range for the offense.

15 (2) The court may impose a sentence outside the standard sentence
16 range for that offense if it finds, considering the purpose of this
17 chapter, that there are substantial and compelling reasons justifying
18 an exceptional sentence.

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20 court shall set forth the reasons for its decision in written findings
21 of fact and conclusions of law. A sentence outside the standard range
22 shall be a determinate sentence.

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24 confinement for life without the possibility of parole or, when
25 authorized by RCW 10.95.030 for the crime of aggravated murder in the
26 first degree, sentenced to death, notwithstanding the maximum sentence
27 under any other law. An offender convicted of the crime of murder in
28 the first degree shall be sentenced to a term of total confinement not
29 less than twenty years. An offender convicted of the crime of assault
30 in the first degree or assault of a child in the first degree where the
31 offender used force or means likely to result in death or intended to
32 kill the victim shall be sentenced to a term of total confinement not
33 less than five years. An offender convicted of the crime of rape in
34 the first degree shall be sentenced to a term of total confinement not
35 less than five years (~~(, and shall not be eligible for furlough, work~~
36 ~~release or other authorized leave of absence from the correctional~~
37 ~~facility during such minimum five-year term except for the purpose of~~
38 ~~commitment to an inpatient treatment facility)). The foregoing minimum~~

1 terms of total confinement are mandatory and shall not be varied or
2 modified as provided in subsection (2) of this section. In addition,
3 all offenders subject to the provisions of this subsection shall not be
4 eligible for community custody, earned early release time, furlough,
5 home detention, partial confinement, work crew, work release, or any
6 other form of early release as defined under RCW 9.94A.150 (1), (2),
7 (3), (5), (7), or (8), or any other form of authorized leave of absence
8 from the correctional facility while not in the direct custody of a
9 corrections officer or officers during such minimum terms of total
10 confinement except in the case of an offender in need of emergency
11 medical treatment or for the purpose of commitment to an inpatient
12 treatment facility in the case of an offender convicted of the crime of
13 rape in the first degree.

14 (5) In sentencing a first-time offender the court may waive the
15 imposition of a sentence within the sentence range and impose a
16 sentence which may include up to ninety days of confinement in a
17 facility operated or utilized under contract by the county and a
18 requirement that the offender refrain from committing new offenses.
19 The sentence may also include up to two years of community supervision,
20 which, in addition to crime-related prohibitions, may include
21 requirements that the offender perform any one or more of the
22 following:

23 (a) Devote time to a specific employment or occupation;

24 (b) Undergo available outpatient treatment for up to two years, or
25 inpatient treatment not to exceed the standard range of confinement for
26 that offense;

27 (c) Pursue a prescribed, secular course of study or vocational
28 training;

29 (d) Remain within prescribed geographical boundaries and notify the
30 court or the community corrections officer prior to any change in the
31 offender's address or employment;

32 (e) Report as directed to the court and a community corrections
33 officer; or

34 (f) Pay all court-ordered legal financial obligations as provided
35 in RCW 9.94A.030 and/or perform community service work.

36 (6) If a sentence range has not been established for the
37 defendant's crime, the court shall impose a determinate sentence which
38 may include not more than one year of confinement, community service
39 work, a term of community supervision not to exceed one year, and/or

1 terms of total confinement are mandatory and shall not be varied or
2 modified as provided in subsection (2) of this section. In addition,
3 all offenders subject to the provisions of this subsection shall not be
4 eligible for community custody, earned early release time, furlough,
5 home detention, partial confinement, work crew, work release, or any
6 other form of early release as defined under RCW 9.94A.150 (1), (2),
7 (3), (5), (7), or (8), or any other form of authorized leave of absence
8 from the correctional facility while not in the direct custody of a
9 corrections officer or officers during such minimum terms of total
10 confinement except in the case of an offender in need of emergency
11 medical treatment or for the purpose of commitment to an inpatient
12 treatment facility in the case of an offender convicted of the crime of
13 rape in the first degree.

14 (5) In sentencing a first-time offender the court may waive the
15 imposition of a sentence within the sentence range and impose a
16 sentence which may include up to ninety days of confinement in a
17 facility operated or utilized under contract by the county and a
18 requirement that the offender refrain from committing new offenses.
19 The sentence may also include up to two years of community supervision,
20 which, in addition to crime-related prohibitions, may include
21 requirements that the offender perform any one or more of the
22 following:

23 (a) Devote time to a specific employment or occupation;

24 (b) Undergo available outpatient treatment for up to two years, or
25 inpatient treatment not to exceed the standard range of confinement for
26 that offense;

27 (c) Pursue a prescribed, secular course of study or vocational
28 training;

29 (d) Remain within prescribed geographical boundaries and notify the
30 court or the community corrections officer prior to any change in the
31 offender's address or employment;

32 (e) Report as directed to the court and a community corrections
33 officer; or

34 (f) Pay all court-ordered legal financial obligations as provided
35 in RCW 9.94A.030 and/or perform community service work.

36 (6) If a sentence range has not been established for the
37 defendant's crime, the court shall impose a determinate sentence which
38 may include not more than one year of confinement, community service
39 work, a term of community supervision not to exceed one year, and/or

1 other legal financial obligations. The court may impose a sentence
2 which provides more than one year of confinement if the court finds,
3 considering the purpose of this chapter, that there are substantial and
4 compelling reasons justifying an exceptional sentence.

5 (7)(a)(i) When an offender is convicted of a sex offense other than
6 a violation of RCW 9A.44.050 or a sex offense that is also a serious
7 violent offense and has no prior convictions for a sex offense or any
8 other felony sex offenses in this or any other state, the sentencing
9 court, on its own motion or the motion of the state or the defendant,
10 may order an examination to determine whether the defendant is amenable
11 to treatment.

12 The report of the examination shall include at a minimum the
13 following: The defendant's version of the facts and the official
14 version of the facts, the defendant's offense history, an assessment of
15 problems in addition to alleged deviant behaviors, the offender's
16 social and employment situation, and other evaluation measures used.
17 The report shall set forth the sources of the evaluator's information.

18 The examiner shall assess and report regarding the defendant's
19 amenability to treatment and relative risk to the community. A
20 proposed treatment plan shall be provided and shall include, at a
21 minimum:

22 (A) Frequency and type of contact between offender and therapist;

23 (B) Specific issues to be addressed in the treatment and
24 description of planned treatment modalities;

25 (C) Monitoring plans, including any requirements regarding living
26 conditions, lifestyle requirements, and monitoring by family members
27 and others;

28 (D) Anticipated length of treatment; and

29 (E) Recommended crime-related prohibitions.

30 The court on its own motion may order, or on a motion by the state
31 shall order, a second examination regarding the offender's amenability
32 to treatment. The evaluator shall be selected by the party making the
33 motion. The defendant shall pay the cost of any second examination
34 ordered unless the court finds the defendant to be indigent in which
35 case the state shall pay the cost.

36 (ii) After receipt of the reports, the court shall consider whether
37 the offender and the community will benefit from use of this special
38 sexual offender sentencing alternative and consider the victim's
39 opinion whether the offender should receive a treatment disposition

1 other legal financial obligations. The court may impose a sentence
2 which provides more than one year of confinement if the court finds,
3 considering the purpose of this chapter, that there are substantial and
4 compelling reasons justifying an exceptional sentence.

5 (7) (a) (i) When an offender is convicted of a sex offense other than
6 a violation of RCW 9A.44.050 or a sex offense that is also a serious
7 violent offense and has no prior convictions for a sex offense or any
8 other felony sex offenses in this or any other state, the sentencing
9 court, on its own motion or the motion of the state or the defendant,
10 may order an examination to determine whether the defendant is amenable
11 to treatment.

12 The report of the examination shall include at a minimum the
13 following: The defendant's version of the facts and the official
14 version of the facts, the defendant's offense history, an assessment of
15 problems in addition to alleged deviant behaviors, the offender's
16 social and employment situation, and other evaluation measures used.
17 The report shall set forth the sources of the evaluator's information.

18 The examiner shall assess and report regarding the defendant's
19 amenability to treatment and relative risk to the community. A
20 proposed treatment plan shall be provided and shall include, at a
21 minimum:

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23 (B) Specific issues to be addressed in the treatment and
24 description of planned treatment modalities;

25 (C) Monitoring plans, including any requirements regarding living
26 conditions, lifestyle requirements, and monitoring by family members
27 and others;

28 (D) Anticipated length of treatment; and

29 (E) Recommended crime-related prohibitions.

30 The court on its own motion may order, or on a motion by the state
31 shall order, a second examination regarding the offender's amenability
32 to treatment. The evaluator shall be selected by the party making the
33 motion. The defendant shall pay the cost of any second examination
34 ordered unless the court finds the defendant to be indigent in which
35 case the state shall pay the cost.

36 (ii) After receipt of the reports, the court shall consider whether
37 the offender and the community will benefit from use of this special
38 sexual offender sentencing alternative and consider the victim's
39 opinion whether the offender should receive a treatment disposition

1 under this subsection. If the court determines that this special sex
2 offender sentencing alternative is appropriate, the court shall then
3 impose a sentence within the sentence range. If this sentence is less
4 than eight years of confinement, the court may suspend the execution of
5 the sentence and impose the following conditions of suspension:

6 (A) The court shall place the defendant on community supervision
7 for the length of the suspended sentence or three years, whichever is
8 greater; and

9 (B) The court shall order treatment for any period up to three
10 years in duration. The court in its discretion shall order outpatient
11 sex offender treatment or inpatient sex offender treatment, if
12 available. A community mental health center may not be used for such
13 treatment unless it has an appropriate program designed for sex
14 offender treatment. The offender shall not change sex offender
15 treatment providers or treatment conditions without first notifying the
16 prosecutor, the community corrections officer, and the court, and shall
17 not change providers without court approval after a hearing if the
18 prosecutor or community corrections officer object to the change. In
19 addition, as conditions of the suspended sentence, the court may impose
20 other sentence conditions including up to six months of confinement,
21 not to exceed the sentence range of confinement for that offense,
22 crime-related prohibitions, and requirements that the offender perform
23 any one or more of the following:

24 (I) Devote time to a specific employment or occupation;

25 (II) Remain within prescribed geographical boundaries and notify
26 the court or the community corrections officer prior to any change in
27 the offender's address or employment;

28 (III) Report as directed to the court and a community corrections
29 officer;

30 (IV) Pay all court-ordered legal financial obligations as provided
31 in RCW 9.94A.030, perform community service work, or any combination
32 thereof; or

33 (V) Make recoupment to the victim for the cost of any counseling
34 required as a result of the offender's crime.

35 (iii) The sex offender therapist shall submit quarterly reports on
36 the defendant's progress in treatment to the court and the parties.
37 The report shall reference the treatment plan and include at a minimum
38 the following: Dates of attendance, defendant's compliance with
39 requirements, treatment activities, the defendant's relative progress

1 under this subsection. If the court determines that this special sex
2 offender sentencing alternative is appropriate, the court shall then
3 impose a sentence within the sentence range. If this sentence is less
4 than eight years of confinement, the court may suspend the execution of
5 the sentence and impose the following conditions of suspension:

6 (A) The court shall place the defendant on community supervision
7 for the length of the suspended sentence or three years, whichever is
8 greater; and

9 (B) The court shall order treatment for any period up to three
10 years in duration. The court in its discretion shall order outpatient
11 sex offender treatment or inpatient sex offender treatment, if
12 available. A community mental health center may not be used for such
13 treatment unless it has an appropriate program designed for sex
14 offender treatment. The offender shall not change sex offender
15 treatment providers or treatment conditions without first notifying the
16 prosecutor, the community corrections officer, and the court, and shall
17 not change providers without court approval after a hearing if the
18 prosecutor or community corrections officer object to the change. In
19 addition, as conditions of the suspended sentence, the court may impose
20 other sentence conditions including up to six months of confinement,
21 not to exceed the sentence range of confinement for that offense,
22 crime-related prohibitions, and requirements that the offender perform
23 any one or more of the following:

24 (I) Devote time to a specific employment or occupation;

25 (II) Remain within prescribed geographical boundaries and notify
26 the court or the community corrections officer prior to any change in
27 the offender's address or employment;

28 (III) Report as directed to the court and a community corrections
29 officer;

30 (IV) Pay all court-ordered legal financial obligations as provided
31 in RCW 9.94A.030, perform community service work, or any combination
32 thereof; or

33 (V) Make recoupment to the victim for the cost of any counseling
34 required as a result of the offender's crime.

35 (iii) The sex offender therapist shall submit quarterly reports on
36 the defendant's progress in treatment to the court and the parties.
37 The report shall reference the treatment plan and include at a minimum
38 the following: Dates of attendance, defendant's compliance with
39 requirements, treatment activities, the defendant's relative progress

1 in treatment, and . / other material as spec. ied by the court at
2 sentencing.

3 (iv) At the time of sentencing, the court shall set a treatment
4 termination hearing for three months prior to the anticipated date for
5 completion of treatment. Prior to the treatment termination hearing,
6 the treatment professional and community corrections officer shall
7 submit written reports to the court and parties regarding the
8 defendant's compliance with treatment and monitoring requirements, and
9 recommendations regarding termination from treatment, including
10 proposed community supervision conditions. Either party may request
11 and the court may order another evaluation regarding the advisability
12 of termination from treatment. The defendant shall pay the cost of any
13 additional evaluation ordered unless the court finds the defendant to
14 be indigent in which case the state shall pay the cost. At the
15 treatment termination hearing the court may: (A) Modify conditions of
16 community supervision, and either (B) terminate treatment, or (C)
17 extend treatment for up to the remaining period of community
18 supervision.

19 (v) The court may revoke the suspended sentence at any time during
20 the period of community supervision and order execution of the sentence
21 if: (A) The defendant violates the conditions of the suspended
22 sentence, or (B) the court finds that the defendant is failing to make
23 satisfactory progress in treatment. All confinement time served during
24 the period of community supervision shall be credited to the offender
25 if the suspended sentence is revoked.

26 (vi) Except as provided in (a)(vii) of this subsection, after July
27 1, 1991, examinations and treatment ordered pursuant to this subsection
28 shall only be conducted by sex offender treatment providers certified
29 by the department of health pursuant to chapter 18.155 RCW.

30 (vii) A sex offender therapist who examines or treats a sex
31 offender pursuant to this subsection (7) does not have to be certified
32 by the department of health pursuant to chapter 18.155 RCW if the court
33 finds that: (A) The offender has already moved to another state or
34 plans to move to another state for reasons other than circumventing the
35 certification requirements; (B) no certified providers are available
36 for treatment within a reasonable geographical distance of the
37 offender's home; and (C) the evaluation and treatment plan comply with
38 this subsection (7) and the rules adopted by the department of health.

1 in treatment, and any other material as specified by the court at
2 sentencing.

3 (iv) At the time of sentencing, the court shall set a treatment
4 termination hearing for three months prior to the anticipated date for
5 completion of treatment. Prior to the treatment termination hearing,
6 the treatment professional and community corrections officer shall
7 submit written reports to the court and parties regarding the
8 defendant's compliance with treatment and monitoring requirements, and
9 recommendations regarding termination from treatment, including
10 proposed community supervision conditions. Either party may request
11 and the court may order another evaluation regarding the advisability
12 of termination from treatment. The defendant shall pay the cost of any
13 additional evaluation ordered unless the court finds the defendant to
14 be indigent in which case the state shall pay the cost. At the
15 treatment termination hearing the court may: (A) Modify conditions of
16 community supervision, and either (B) terminate treatment, or (C)
17 extend treatment for up to the remaining period of community
18 supervision.

19 (v) The court may revoke the suspended sentence at any time during
20 the period of community supervision and order execution of the sentence
21 if: (A) The defendant violates the conditions of the suspended
22 sentence, or (B) the court finds that the defendant is failing to make
23 satisfactory progress in treatment. All confinement time served during
24 the period of community supervision shall be credited to the offender
25 if the suspended sentence is revoked.

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34 plans to move to another state for reasons other than circumventing the
35 certification requirements; (B) no certified providers are available
36 for treatment within a reasonable geographical distance of the
37 offender's home; and (C) the evaluation and treatment plan comply with
38 this subsection (7) and the rules adopted by the department of health.

1 For purposes of this subsection, "victim" means any person who has
2 sustained emotional, psychological, physical, or financial injury to
3 person or property as a result of the crime charged. "Victim" also
4 means a parent or guardian of a victim who is a minor child unless the
5 parent or guardian is the perpetrator of the offense.

6 (b) When an offender is convicted of any felony sex offense
7 committed before July 1, 1987, and is sentenced to a term of
8 confinement of more than one year but less than six years, the
9 sentencing court may, on its own motion or on the motion of the
10 offender or the state, order the offender committed for up to thirty
11 days to the custody of the secretary of social and health services for
12 evaluation and report to the court on the offender's amenability to
13 treatment at these facilities. If the secretary of social and health
14 services cannot begin the evaluation within thirty days of the court's
15 order of commitment, the offender shall be transferred to the state for
16 confinement pending an opportunity to be evaluated at the appropriate
17 facility. The court shall review the reports and may order that the
18 term of confinement imposed be served in the sexual offender treatment
19 program at the location determined by the secretary of social and
20 health services or the secretary's designee, only if the report
21 indicates that the offender is amenable to the treatment program
22 provided at these facilities. The offender shall be transferred to the
23 state pending placement in the treatment program. Any offender who has
24 escaped from the treatment program shall be referred back to the
25 sentencing court.

26 If the offender does not comply with the conditions of the
27 treatment program, the secretary of social and health services may
28 refer the matter to the sentencing court. The sentencing court shall
29 commit the offender to the department of corrections to serve the
30 balance of the term of confinement.

31 If the offender successfully completes the treatment program before
32 the expiration of the term of confinement, the court may convert the
33 balance of confinement to community supervision and may place
34 conditions on the offender including crime-related prohibitions and
35 requirements that the offender perform any one or more of the
36 following:

- 37 * (i) Devote time to a specific employment or occupation;

1 For purposes of this subsection, "victim" means any person who has
2 sustained emotional, psychological, physical, or financial injury to
3 person or property as a result of the crime charged. "Victim" also
4 means a parent or guardian of a victim who is a minor child unless the
5 parent or guardian is the perpetrator of the offense.

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7 committed before July 1, 1987, and is sentenced to a term of
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30 balance of the term of confinement.

31 If the offender successfully completes the treatment program before
32 the expiration of the term of confinement, the court may convert the
33 balance of confinement to community supervision and may place
34 conditions on the offender including crime-related prohibitions and
35 requirements that the offender perform any one or more of the
36 following:

37 (i) Devote time to a specific employment or occupation;

1 (ii) Remain within prescribed geographical boundaries and notify
2 the court or the community corrections officer prior to any change in
3 the offender's address or employment;

4 (iii) Report as directed to the court and a community corrections
5 officer;

6 (iv) Undergo available outpatient treatment.

7 If the offender violates any of the terms of community supervision,
8 the court may order the offender to serve out the balance of the
9 community supervision term in confinement in the custody of the
10 department of corrections.

11 After June 30, 1993, this subsection (b) shall cease to have
12 effect.

13 (c) When an offender commits any felony sex offense on or after
14 July 1, 1987, and is sentenced to a term of confinement of more than
15 one year but less than six years, the sentencing court may, on its own
16 motion or on the motion of the offender or the state, request the
17 department of corrections to evaluate whether the offender is amenable
18 to treatment and the department may place the offender in a treatment
19 program within a correctional facility operated by the department.

20 Except for an offender who has been convicted of a violation of RCW
21 9A.44.040 or 9A.44.050, if the offender completes the treatment program
22 before the expiration of his or her term of confinement, the department
23 of corrections may request the court to convert the balance of
24 confinement to community supervision and to place conditions on the
25 offender including crime-related prohibitions and requirements that the
26 offender perform any one or more of the following:

27 (i) Devote time to a specific employment or occupation;

28 (ii) Remain within prescribed geographical boundaries and notify
29 the court or the community corrections officer prior to any change in
30 the offender's address or employment;

31 (iii) Report as directed to the court and a community corrections
32 officer;

33 (iv) Undergo available outpatient treatment.

34 If the offender violates any of the terms of his or her community
35 supervision, the court may order the offender to serve out the balance
36 of his or her community supervision term in confinement in the custody
37 of the department of corrections.

38 Nothing in (c) of this subsection shall confer eligibility for such
39 programs for offenders convicted and sentenced for a sex offense

1 (ii) Remain within prescribed geographical boundaries and notify
2 the court or the community corrections officer prior to any change in
3 the offender's address or employment;

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5 officer;

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8 the court may order the offender to serve out the balance of the
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10 department of corrections.

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12 effect.

13 (c) When an offender commits any felony sex offense on or after
14 July 1, 1987, and is sentenced to a term of confinement of more than
15 one year but less than six years, the sentencing court may, on its own
16 motion or on the motion of the offender or the state, request the
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23 of corrections may request the court to convert the balance of
24 confinement to community supervision and to place conditions on the
25 offender including crime-related prohibitions and requirements that the
26 offender perform any one or more of the following:

27 (i) Devote time to a specific employment or occupation;

28 (ii) Remain within prescribed geographical boundaries and notify
29 the court or the community corrections officer prior to any change in
30 the offender's address or employment;

31 (iii) Report as directed to the court and a community corrections
32 officer;

33 (iv) Undergo available outpatient treatment.

34 If the offender violates any of the terms of his or her community
35 supervision, the court may order the offender to serve out the balance
36 of his or her community supervision term in confinement in the custody
37 of the department of corrections.

38 Nothing in (c) of this subsection shall confer eligibility for such
39 programs for offenders convicted and sentenced for a sex offense

1 committed prior to July 1, 1987. This subsection (c) does not apply to
2 any crime committed after July 1, 1990.

3 (d) Offenders convicted and sentenced for a sex offense committed
4 prior to July 1, 1987, may, subject to available funds, request an
5 evaluation by the department of corrections to determine whether they
6 are amenable to treatment. If the offender is determined to be
7 amenable to treatment, the offender may request placement in a
8 treatment program within a correctional facility operated by the
9 department. Placement in such treatment program is subject to
10 available funds.

11 (8)(a) When a court sentences a person to a term of total
12 confinement to the custody of the department of corrections for an
13 offense categorized as a sex offense or a serious violent offense
14 committed after July 1, 1988, but before July 1, 1990, assault in the
15 second degree, assault of a child in the second degree, any crime
16 against a person where it is determined in accordance with RCW
17 9.94A.125 that the defendant or an accomplice was armed with a deadly
18 weapon at the time of commission, or any felony offense under chapter
19 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall
20 in addition to the other terms of the sentence, sentence the offender
21 to a one-year term of community placement beginning either upon
22 completion of the term of confinement or at such time as the offender
23 is transferred to community custody in lieu of earned early release in
24 accordance with RCW 9.94A.150 (1) and (2). When the court sentences an
25 offender under this subsection to the statutory maximum period of
26 confinement then the community placement portion of the sentence shall
27 consist entirely of such community custody to which the offender may
28 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any
29 period of community custody actually served shall be credited against
30 the community placement portion of the sentence.

31 (b) When a court sentences a person to a term of total confinement
32 to the custody of the department of corrections for an offense
33 categorized as a sex offense or serious violent offense committed on or
34 after July 1, 1990, the court shall in addition to other terms of the
35 sentence, sentence the offender to community placement for two years or
36 up to the period of earned early release awarded pursuant to RCW
37 9.94A.150 (1) and (2), whichever is longer. The community placement
38 shall begin either upon completion of the term of confinement or at
39 such time as the offender is transferred to community custody in lieu

1 committed prior to July 1, 1987. This subsection (c) does not apply to
2 any crime committed after July 1, 1990.

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4 prior to July 1, 1987, may, subject to available funds, request an
5 evaluation by the department of corrections to determine whether they
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3 statutory maximum period of confinement then the community placement
4 portion of the sentence shall consist entirely of the community custody
5 to which the offender may become eligible, in accordance with RCW
6 9.94A.150 (1) and (2). Any period of community custody actually served
7 shall be credited against the community placement portion of the
8 sentence. Unless a condition is waived by the court, the terms of
9 community placement for offenders sentenced pursuant to this section
10 shall include the following conditions:

11 (i) The offender shall report to and be available for contact with
12 the assigned community corrections officer as directed;

13 (ii) The offender shall work at department of corrections-approved
14 education, employment, and/or community service;

15 (iii) The offender shall not consume controlled substances except
16 pursuant to lawfully issued prescriptions;

17 (iv) An offender in community custody shall not unlawfully possess
18 controlled substances;

19 (v) The offender shall pay supervision fees as determined by the
20 department of corrections; and

21 (vi) The residence location and living arrangements are subject to
22 the prior approval of the department of corrections during the period
23 of community placement.

24 (c) The court may also order any of the following special
25 conditions:

26 (i) The offender shall remain within, or outside of, a specified
27 geographical boundary;

28 (ii) The offender shall not have direct or indirect contact with
29 the victim of the crime or a specified class of individuals;

30 (iii) The offender shall participate in crime-related treatment or
31 counseling services;

32 (iv) The offender shall not consume alcohol; or

33 (v) The offender shall comply with any crime-related prohibitions.

34 (d) Prior to transfer to, or during, community placement, any
35 conditions of community placement may be removed or modified so as not
36 to be more restrictive by the sentencing court, upon recommendation of
37 the department of corrections.

38 (9) If the court imposes a sentence requiring confinement of thirty
39 days or less, the court may, in its discretion, specify that the

1 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
2 When the court sentences an offender under this subsection to the
3 statutory maximum period of confinement then the community placement
4 portion of the sentence shall consist entirely of the community custody
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31 counseling services;

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35 conditions of community placement may be removed or modified so as not
36 to be more restrictive by the sentencing court, upon recommendation of
37 the department of corrections.

38 (9) If the court imposes a sentence requiring confinement of thirty
39 days or less, the court may, in its discretion, specify that the

1 sentence be served . consecutive or intermit at days. A sentence
2 requiring more than thirty days of confinement shall be served on
3 consecutive days. Local jail administrators may schedule court-ordered
4 intermittent sentences as space permits.

5 (10) If a sentence imposed includes payment of a legal financial
6 obligation, the sentence shall specify the total amount of the legal
7 financial obligation owed, and shall require the offender to pay a
8 specified monthly sum toward that legal financial obligation.
9 Restitution to victims shall be paid prior to any other payments of
10 monetary obligat'ons. Any legal financial obligation that is imposed
11 by the court may be collected by the department, which shall deliver
12 the amount paid to the county clerk for credit. The offender's
13 compliance with payment of legal financial obligations shall be
14 supervised by the department. All monetary payments ordered shall be
15 paid no later than ten years after the last date of release from
16 confinement pursuant to a felony conviction or the date the sentence
17 was entered. Independent of the department, the party or entity to
18 whom the legal financial obligation is owed shall have the authority to
19 utilize any other remedies available to the party or entity to collect
20 the legal financial obligation. Nothing in this section makes the
21 department, the state, or any of its employees, agents, or other
22 persons acting on their behalf liable under any circumstances for the
23 payment of these legal financial obligations. If an order includes
24 restitution as one of the monetary assessments, the county clerk shall
25 make disbursements to victims named in the order.

26 (11) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
27 court may not impose a sentence providing for a term of confinement or
28 community supervision or community placement which exceeds the
29 statutory maximum for the crime as provided in chapter 9A.20 RCW.

30 (12) All offenders sentenced to terms involving community
31 supervision, community service, community placement, or legal financial
32 obligation shall be under the supervision of the secretary of the
33 department of corrections or such person as the secretary may designate
34 and shall follow explicitly the instructions of the secretary including
35 reporting as directed to a community corrections officer, remaining
36 within prescribed geographical boundaries, notifying the community
37 corrections officer of any change in the offender's address or
38 employment, and paying the supervision fee assessment.

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34 and shall follow explicitly the instructions of the secretary including
35 reporting as directed to a community corrections officer, remaining
36 within prescribed geographical boundaries, notifying the community
37 corrections officer of any change in the offender's address or
38 employment, and paying the supervision fee assessment.

1 (13) All offenders sentenced to terms involving community
2 supervision, community service, or community placement under the
3 supervision of the department of corrections shall not own, use, or
4 possess firearms or ammunition. Offenders who own, use, or are found
5 to be in actual or constructive possession of firearms or ammunition
6 shall be subject to the appropriate violation process and sanctions.
7 "Constructive possession" as used in this subsection means the power
8 and intent to control the firearm or ammunition. "Firearm" as used in
9 this subsection means a weapon or device from which a projectile may be
10 fired or an explosive such as gunpowder.

11 (14) The sentencing court shall give the offender credit for all
12 confinement time served before the sentencing if that confinement was
13 solely in regard to the offense for which the offender is being
14 sentenced.

15 (15) A departure from the standards in RCW 9.94A.400 (1) and (2)
16 governing whether sentences are to be served consecutively or
17 concurrently is an exceptional sentence subject to the limitations in
18 subsections (2) and (3) of this section, and may be appealed by the
19 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

20 (16) The court shall order restitution whenever the offender is
21 convicted of a felony that results in injury to any person or damage to
22 or loss of property, whether the offender is sentenced to confinement
23 or placed under community supervision, unless extraordinary
24 circumstances exist that make restitution inappropriate in the court's
25 judgment. The court shall set forth the extraordinary circumstances in
26 the record if it does not order restitution.

27 (17) As a part of any sentence, the court may impose and enforce an
28 order that relates directly to the circumstances of the crime for which
29 the offender has been convicted, prohibiting the offender from having
30 any contact with other specified individuals or a specific class of
31 individuals for a period not to exceed the maximum allowable sentence
32 for the crime, regardless of the expiration of the offender's term of
33 community supervision or community placement.

34 (18) In any sentence of partial confinement, the court may require
35 the defendant to serve the partial confinement in work release, in a
36 program of home detention, on work crew, or in a combined program of
37 work crew and home detention.

38 (19) All court-ordered legal financial obligations collected by the
39 department and remitted to the county clerk shall be credited and paid

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2 supervision, community service, or community placement under the
3 supervision of the department of corrections shall not own, use, or
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5 to be in actual or constructive possession of firearms or ammunition
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37 work crew and home detention.

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39 department and remitted to the county clerk shall be credited and paid

1 where restitution is ordered. Restitution shall be paid prior to any
2 other payments of monetary obligations.

3 Sec. 3. RCW 9.94A.030 and 1992 c 145 s 6 and 1992 c 75 s 1 are
4 each reenacted and amended to read as follows:

5 DEFINITIONS. Unless the context clearly requires otherwise, the
6 definitions in this section apply throughout this chapter.

7 (1) "Collect," or any derivative thereof, "collect and remit," or
8 "collect and deliver," when used with reference to the department of
9 corrections, means that the department is responsible for monitoring
10 and enforcing the offender's sentence with regard to the legal
11 financial obligation, receiving payment thereof from the offender, and,
12 consistent with current law, delivering daily the entire payment to the
13 superior court clerk without depositing it in a departmental account.

14 (2) "Commission" means the sentencing guidelines commission.

15 (3) "Community corrections officer" means an employee of the
16 department who is responsible for carrying out specific duties in
17 supervision of sentenced offenders and monitoring of sentence
18 conditions.

19 (4) "Community custody" means that portion of an inmate's sentence
20 of confinement in lieu of earned early release time served in the
21 community subject to controls placed on the inmate's movement and
22 activities by the department of corrections.

23 (5) "Community placement" means that period during which the
24 offender is subject to the conditions of community custody and/or
25 postrelease supervision, which begins either upon completion of the
26 term of confinement (postrelease supervision) or at such time as the
27 offender is transferred to community custody in lieu of earned early
28 release. Community placement may consist of entirely community
29 custody, entirely postrelease supervision, or a combination of the two.

30 (6) "Community service" means compulsory service, without
31 compensation, performed for the benefit of the community by the
32 offender.

33 (7) "Community supervision" means a period of time during which a
34 convicted offender is subject to crime-related prohibitions and other
35 sentence conditions imposed by a court pursuant to this chapter or RCW
36 46.61.524. For first-time offenders, the supervision may include
37 crime-related prohibitions and other conditions imposed pursuant to RCW
38 9.94A.120(5). For purposes of the interstate compact for out-of-state

1 where restitution is ordered. Restitution shall be paid prior to any
2 other payments of monetary obligations.

3 Sec. 3. RCW 9.94A.030 and 1992 c 145 s 6 and 1992 c 75 s 1 are
4 each reenacted and amended to read as follows:

5 DEFINITIONS. Unless the context clearly requires otherwise, the
6 definitions in this section apply throughout this chapter.

7 (1) "Collect," or any derivative thereof, "collect and remit," or
8 "collect and deliver," when used with reference to the department of
9 corrections, means that the department is responsible for monitoring
10 and enforcing the offender's sentence with regard to the legal
11 financial obligation, receiving payment thereof from the offender, and,
12 consistent with current law, delivering daily the entire payment to the
13 superior court clerk without depositing it in a departmental account.

14 (2) "Commission" means the sentencing guidelines commission.

15 (3) "Community corrections officer" means an employee of the
16 department who is responsible for carrying out specific duties in
17 supervision of sentenced offenders and monitoring of sentence
18 conditions.

19 (4) "Community custody" means that portion of an inmate's sentence
20 of confinement in lieu of earned early release time served in the
21 community subject to controls placed on the inmate's movement and
22 activities by the department of corrections.

23 (5) "Community placement" means that period during which the
24 offender is subject to the conditions of community custody and/or
25 postrelease supervision, which begins either upon completion of the
26 term of confinement (postrelease supervision) or at such time as the
27 offender is transferred to community custody in lieu of earned early
28 release. Community placement may consist of entirely community
29 custody, entirely postrelease supervision, or a combination of the two.

30 (6) "Community service" means compulsory service, without
31 compensation, performed for the benefit of the community by the
32 offender.

33 (7) "Community supervision" means a period of time during which a
34 convicted offender is subject to crime-related prohibitions and other
35 sentence conditions imposed by a court pursuant to this chapter or RCW
36 46.61.524. For first-time offenders, the supervision may include
37 crime-related prohibitions and other conditions imposed pursuant to RCW
38 9.94A.120(5). For purposes of the interstate compact for out-of-state

1 supervision of parolees and probationers, RCW 9.95.270, community
2 supervision is the functional equivalent of probation and should be
3 considered the same as probation by other states.

4 (8) "Confinement" means total or partial confinement as defined in
5 this section.

6 (9) "Conviction" means an adjudication of guilt pursuant to Titles
7 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
8 acceptance of a plea of guilty.

9 (10) "Court-ordered legal financial obligation" means a sum of
10 money that is ordered by a superior court of the state of Washington
11 for legal financial obligations which may include restitution to the
12 victim, statutorily imposed crime victims' compensation fees as
13 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
14 drug funds, court-appointed attorneys' fees, and costs of defense,
15 fines, and any other financial obligation that is assessed to the
16 offender as a result of a felony conviction.

17 (11) "Crime-related prohibition" means an order of a court
18 prohibiting conduct that directly relates to the circumstances of the
19 crime for which the offender has been convicted, and shall not be
20 construed to mean orders directing an offender affirmatively to
21 participate in rehabilitative programs or to otherwise perform
22 affirmative conduct.

23 (12)(a) "Criminal history" means the list of a defendant's prior
24 convictions, whether in this state, in federal court, or elsewhere.
25 The history shall include, where known, for each conviction (i) whether
26 the defendant has been placed on probation and the length and terms
27 thereof; and (ii) whether the defendant has been incarcerated and the
28 length of incarceration.

29 (b) "Criminal history" shall always include juvenile convictions
30 for sex offenses and shall also include a defendant's other prior
31 convictions in juvenile court if: (i) The conviction was for an
32 offense which is a felony or a serious traffic offense and is criminal
33 history as defined in RCW 13.40.020(6)(a); (ii) the defendant was
34 fifteen years of age or older at the time the offense was committed;
35 and (iii) with respect to prior juvenile class B and C felonies or
36 serious traffic offenses, the defendant was less than twenty-three
37 years of age at the time the offense for which he or she is being
38 sentenced was committed.

39 (13) "Department" means the department of corrections.

1 supervision of parolees and probationers, R. 9.95.270, community
2 supervision is the functional equivalent of probation and should be
3 considered the same as probation by other states.

4 (8) "Confinement" means total or partial confinement as defined in
5 this section.

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7 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
8 acceptance of a plea of guilty.

9 (10) "Court-ordered legal financial obligation" means a sum of
10 money that is ordered by a superior court of the state of Washington
11 for legal financial obligations which may include restitution to the
12 victim, statutorily imposed crime victims' compensation fees as
13 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
14 drug funds, court-appointed attorneys' fees, and costs of defense,
15 fines, and any other financial obligation that is assessed to the
16 offender as a result of a felony conviction.

17 (11) "Crime-related prohibition" means an order of a court
18 prohibiting conduct that directly relates to the circumstances of the
19 crime for which the offender has been convicted, and shall not be
20 construed to mean orders directing an offender affirmatively to
21 participate in rehabilitative programs or to otherwise perform
22 affirmative conduct.

23 (12)(a) "Criminal history" means the list of a defendant's prior
24 convictions, whether in this state, in federal court, or elsewhere.
25 The history shall include, where known, for each conviction (i) whether
26 the defendant has been placed on probation and the length and terms
27 thereof; and (ii) whether the defendant has been incarcerated and the
28 length of incarceration.

29 (b) "Criminal history" shall always include juvenile convictions
30 for sex offenses and shall also include a defendant's other prior
31 convictions in juvenile court if: (i) The conviction was for an
32 offense which is a felony or a serious traffic offense and is criminal
33 history as defined in RCW 13.40.020(6)(a); (ii) the defendant was
34 fifteen years of age or older at the time the offense was committed;
35 and (iii) with respect to prior juvenile class B and C felonies or
36 serious traffic offenses, the defendant was less than twenty-three
37 years of age at the time the offense for which he or she is being
38 sentenced was committed.

39 (13) "Department" means the department of corrections.

1 (14) "Determinate sentence" means a sentence that states with
2 exactitude the number of actual years, months, or days of total
3 confinement, of partial confinement, of community supervision, the
4 number of actual hours or days of community service work, or dollars or
5 terms of a legal financial obligation. The fact that an offender
6 through "earned early release" can reduce the actual period of
7 confinement shall not affect the classification of the sentence as a
8 determinate sentence.

9 (15) "Disposable earnings" means that part of the earnings of an
10 individual remaining after the deduction from those earnings of any
11 amount required by law to be withheld. For the purposes of this
12 definition, "earnings" means compensation paid or payable for personal
13 services, whether denominated as wages, salary, commission, bonuses, or
14 otherwise, and, notwithstanding any other provision of law making the
15 payments exempt from garnishment, attachment, or other process to
16 satisfy a court-ordered legal financial obligation, specifically
17 includes periodic payments pursuant to pension or retirement programs,
18 or insurance policies of any type, but does not include payments made
19 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
20 or Title 74 RCW.

21 (16) "Drug offense" means:

22 (a) Any felony violation of chapter 69.50 RCW except possession of
23 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
24 controlled substance (RCW 69.50.403);

25 (b) Any offense defined as a felony under federal law that relates
26 to the possession, manufacture, distribution, or transportation of a
27 controlled substance; or

28 (c) Any out-of-state conviction for an offense that under the laws
29 of this state would be a felony classified as a drug offense under (a)
30 of this subsection.

31 (17) "Escape" means:

32 (a) Escape in the first degree (RCW 9A.76.110), escape in the
33 second degree (RCW 9A.76.120), willful failure to return from furlough
34 (RCW 72.66.060), willful failure to return from work release (RCW
35 72.65.070), or willful failure to be available for supervision by the
36 department while in community custody (RCW 72.09.310); or

37 (b) Any federal or out-of-state conviction for an offense that
38 under the laws of this state would be a felony classified as an escape
39 under (a) of this subsection.

1 (14) "Determinate sentence" means a sentence that states with
2 exactitude the number of actual years, months, or days of total
3 confinement, of partial confinement, of community supervision, the
4 number of actual hours or days of community service work, or dollars or
5 terms of a legal financial obligation. The fact that an offender
6 through "earned early release" can reduce the actual period of
7 confinement shall not affect the classification of the sentence as a
8 determinate sentence.

9 (15) "Disposable earnings" means that part of the earnings of an
10 individual remaining after the deduction from those earnings of any
11 amount required by law to be withheld. For the purposes of this
12 definition, "earnings" means compensation paid or payable for personal
13 services, whether denominated as wages, salary, commission, bonuses, or
14 otherwise, and, notwithstanding any other provision of law making the
15 payments exempt from garnishment, attachment, or other process to
16 satisfy a court-ordered legal financial obligation, specifically
17 includes periodic payments pursuant to pension or retirement programs,
18 or insurance policies of any type, but does not include payments made
19 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
20 or Title 74 RCW.

21 (16) "Drug offense" means:

22 (a) Any felony violation of chapter 69.50 RCW except possession of
23 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
24 controlled substance (RCW 69.50.403);

25 (b) Any offense defined as a felony under federal law that relates
26 to the possession, manufacture, distribution, or transportation of a
27 controlled substance; or

28 (c) Any out-of-state conviction for an offense that under the laws
29 of this state would be a felony classified as a drug offense under (a)
30 of this subsection.

31 (17) "Escape" means:

32 (a) Escape in the first degree (RCW 9A.76.110), escape in the
33 second degree (RCW 9A.76.120), willful failure to return from furlough
34 (RCW 72.66.060), willful failure to return from work release (RCW
35 72.65.070), or willful failure to be available for supervision by the
36 department while in community custody (RCW 72.09.310); or

37 (b) Any federal or out-of-state conviction for an offense that
38 under the laws of this state would be a felony classified as an escape
39 under (a) of this subsection.

1 (18) "Felony traffic offense" means:

2 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
3 46.61.522), including a police officer (RCW 46.61.024), or felony hit-
4 and-run injury-accident (RCW 46.52.020(4)); or

5 (b) Any federal or out-of-state conviction for an offense that
6 under the laws of this state would be a felony classified as a felony
7 traffic offense under (a) of this subsection.

8 (19) "Fines" means the requirement that the offender pay a specific
9 sum of money over a specific period of time to the court.

10 (20) (a) "First-time offender" means any person who is convicted of
11 a felony (i) not classified as a violent offense or a sex offense under
12 this chapter, or (ii) that is not the manufacture, delivery, or
13 possession with intent to manufacture or deliver a controlled substance
14 classified in schedule I or II that is a narcotic drug or the selling
15 for profit (~~{ef}~~) of any controlled substance or counterfeit
16 substance classified in schedule I, RCW 69.50.204, except leaves and
17 flowering tops of marijuana, and except as provided in (b) of this
18 subsection, who previously has never been convicted of a felony in this
19 state, federal court, or another state, and who has never participated
20 in a program of deferred prosecution for a felony offense.

21 (b) For purposes of (a) of this subsection, a juvenile adjudication
22 for an offense committed before the age of fifteen years is not a
23 previous felony conviction except for adjudications of sex offenses.

24 (21) "Most serious offense" means any of the following felonies or
25 a felony attempt to commit any of the following felonies, as now
26 existing or hereafter amended:

27 (a) Any felony defined under any law as a class A felony or
28 criminal solicitation of or criminal conspiracy to commit a class A
29 felony;

30 (b) Assault in the second degree;

31 (c) Assault of a child in the second degree;

32 (d) Child molestation in the second degree;

33 (e) Controlled substance homicide;

34 (f) Extortion in the first degree;

35 (g) Incest when committed against a child under age fourteen;

36 (h) Indecent liberties;

37 (i) Kidnapping in the second degree;

38 (j) Leading organized crime;

39 (k) Manslaughter in the first degree;

1 (18) "Felony traffic offense" means:

2 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
3 46.61.522), including a police officer (RCW 46.61.024), or felony hit-
4 and-run injury-accident (RCW 46.52.020(4)); or

5 (b) Any federal or out-of-state conviction for an offense that
6 under the laws of this state would be a felony classified as a felony
7 traffic offense under (a) of this subsection.

8 (19) "Fines" means the requirement that the offender pay a specific
9 sum of money over a specific period of time to the court.

10 (20)(a) "First-time offender" means any person who is convicted of
11 a felony (i) not classified as a violent offense or a sex offense under
12 this chapter, or (ii) that is not the manufacture, delivery, or
13 possession with intent to manufacture or deliver a controlled substance
14 classified in schedule I or II that is a narcotic drug or the selling
15 for profit (~~{of}~~) of any controlled substance or counterfeit
16 substance classified in schedule I, RCW 69.50.204, except leaves and
17 flowering tops of marijuana, and except as provided in (b) of this
18 subsection, who previously has never been convicted of a felony in this
19 state, federal court, or another state, and who has never participated
20 in a program of deferred prosecution for a felony offense.

21 (b) For purposes of (a) of this subsection, a juvenile adjudication
22 for an offense committed before the age of fifteen years is not a
23 previous felony conviction except for adjudications of sex offenses.

24 (21) "Most serious offense" means any of the following felonies or
25 a felony attempt to commit any of the following felonies, as now
26 existing or hereafter amended:

27 (a) Any felony defined under any law as a class A felony or
28 criminal solicitation of or criminal conspiracy to commit a class A
29 felony;

30 (b) Assault in the second degree;

31 (c) Assault of a child in the second degree;

32 (d) Child molestation in the second degree;

33 (e) Controlled substance homicide;

34 (f) Extortion in the first degree;

35 (g) Incest when committed against a child under age fourteen;

36 (h) Indecent liberties;

37 (i) Kidnapping in the second degree;

38 (j) Leading organized crime;

39 (k) Manslaughter in the first degree;

1 (l) Manslaughte in the second degree;
2 (m) Promoting prostitution in the first degree;
3 (n) Rape in the third degree;
4 (o) Robbery in the second degree;
5 (p) Sexual exploitation;
6 (q) Vehicular assault;
7 (r) Vehicular homicide, when proximately caused by the driving of
8 any vehicle by any person while under the influence of intoxicating
9 liquor or any drug as defined by RCW 46.61.502, or by the operation of
10 any vehicle in a reckless manner;
11 (s) Any other class B felony offense with a finding of sexual
12 motivation, as "sexual motivation" is defined under this section;
13 (t) Any other felony with a deadly weapon verdict under RCW
14 9.94A.125;
15 (u) Any felony offense in effect at any time prior to the effective
16 date of this section, that is comparable to a most serious offense
17 under this subsection, or any federal or out-of-state conviction for an
18 offense that under the laws of this state would be a felony classified
19 as a most serious offense under this subsection.
20 (22) "Nonviolent offense" means an offense which is not a violent
21 offense.
22 ~~((+22+))~~ (23) "Offender" means a person who has committed a felony
23 established by state law and is eighteen years of age or older or is
24 less than eighteen years of age but whose case has been transferred by
25 the appropriate juvenile court to a criminal court pursuant to RCW
26 13.40.110. Throughout this chapter, the terms "offender" and
27 "defendant" are used interchangeably.
28 ~~((+23+))~~ (24) "Partial confinement" means confinement for no more
29 than one year in a facility or institution operated or utilized under
30 contract by the state or any other unit of government, or, if home
31 detention or work crew has been ordered by the court, in an approved
32 residence, for a substantial portion of each day with the balance of
33 the day spent in the community. Partial confinement includes work
34 release, home detention, work crew, and a combination of work crew and
35 home detention as defined in this section.
36 ~~((+24+))~~ (25) "Persistent offender" is an offender who:
37 (a) Has been convicted in this state of any felony considered a
38 most serious offense; and

1 (l) Manslaughte in the second degree;
2 (m) Promoting prostitution in the first degree;
3 (n) Rape in the third degree;
4 (o) Robbery in the second degree;
5 (p) Sexual exploitation;
6 (q) Vehicular assault;
7 (r) Vehicular homicide, when proximately caused by the driving of
8 any vehicle by any person while under the influence of intoxicating
9 liquor or any drug as defined by RCW 46.61.502, or by the operation of
10 any vehicle in a reckless manner;
11 (s) Any other class B felony offense with a finding of sexual
12 motivation, as "sexual motivation" is defined under this section;
13 (t) Any other felony with a deadly weapon verdict under RCW
14 9.94A.125;
15 (u) Any felony offense in effect at any time prior to the effective
16 date of this section, that is comparable to a most serious offense
17 under this subsection, or any federal or out-of-state conviction for an
18 offense that under the laws of this state would be a felony classified
19 as a most serious offense under this subsection.
20 (22) "Nonviolent offense" means an offense which is not a violent
21 offense.
22 ~~((22))~~ (23) "Offender" means a person who has committed a felony
23 established by state law and is eighteen years of age or older or is
24 less than eighteen years of age but whose case has been transferred by
25 the appropriate juvenile court to a criminal court pursuant to RCW
26 13.40.110. Throughout this chapter, the terms "offender" and
27 "defendant" are used interchangeably.
28 ~~((23))~~ (24) "Partial confinement" means confinement for no more
29 than one year in a facility or institution operated or utilized under
30 contract by the state or any other unit of government, or, if home
31 detention or work crew has been ordered by the court, in an approved
32 residence, for a substantial portion of each day with the balance of
33 the day spent in the community. Partial confinement includes work
34 release, home detention, work crew, and a combination of work crew and
35 home detention as defined in this section.
36 ~~((24))~~ (25) "Persistent offender" is an offender who:
37 (a) Has been convicted in this state of any felony considered a
38 most serious offense; and

1 (b) Has, before the commission of the offense under (a) of this
2 subsection, been convicted as an offender on at least two separate
3 occasions, whether in this state or elsewhere, of felonies that under
4 the laws of this state would be considered most serious offenses and
5 would be included in the offender score under RCW 9.94A.360; provided
6 that of the two or more previous convictions, at least one conviction
7 must have occurred before the commission of any of the other most
8 serious offenses for which the offender was previously convicted.

9 (26) "Postrelease supervision" is that portion of an offender's
10 community placement that is not community custody.

11 ~~((25))~~ (27) "Restitution" means the requirement that the offender
12 pay a specific sum of money over a specific period of time to the court
13 as payment of damages. The sum may include both public and private
14 costs. The imposition of a restitution order does not preclude civil
15 redress.

16 ~~((26))~~ (28) "Serious traffic offense" means:

17 (a) Driving while under the influence of intoxicating liquor or any
18 drug (RCW 46.61.502), actual physical control while under the influence
19 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
20 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
21 or

22 (b) Any federal, out-of-state, county, or municipal conviction for
23 an offense that under the laws of this state would be classified as a
24 serious traffic offense under (a) of this subsection.

25 ~~((27))~~ (29) "Serious violent offense" is a subcategory of violent
26 offense and means:

27 (a) Murder in the first degree, homicide by abuse, murder in the
28 second degree, assault in the first degree, kidnapping in the first
29 degree, or rape in the first degree, assault of a child in the first
30 degree, or an attempt, criminal solicitation, or criminal conspiracy to
31 commit one of these felonies; or

32 (b) Any federal or out-of-state conviction for an offense that
33 under the laws of this state would be a felony classified as a serious
34 violent offense under (a) of this subsection.

35 ~~((28))~~ (30) "Sentence range" means the sentencing court's
36 discretionary range in imposing a nonappealable sentence.

37 ~~((29))~~ (31) "Sex offense" means:

38 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
39 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal

1 (b) Has, before the commission of the offense under (a) of this
2 subsection, been convicted as an offender on at least two separate
3 occasions, whether in this state or elsewhere, of felonies that under
4 the laws of this state would be considered most serious offenses and
5 would be included in the offender score under RCW 9.94A.360; provided
6 that of the two or more previous convictions, at least one conviction
7 must have occurred before the commission of any of the other most
8 serious offenses for which the offender was previously convicted.

9 (26) "Postrelease supervision" is that portion of an offender's
10 community placement that is not community custody.

11 ~~((25))~~ (27) "Restitution" means the requirement that the offender
12 pay a specific sum of money over a specific period of time to the court
13 as payment of damages. The sum may include both public and private
14 costs. The imposition of a restitution order does not preclude civil
15 redress.

16 ~~((26))~~ (28) "Serious traffic offense" means:

17 (a) Driving while under the influence of intoxicating liquor or any
18 drug (RCW 46.61.502), actual physical control while under the influence
19 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
20 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
21 or

22 (b) Any federal, out-of-state, county, or municipal conviction for
23 an offense that under the laws of this state would be classified as a
24 serious traffic offense under (a) of this subsection.

25 ~~((27))~~ (29) "Serious violent offense" is a subcategory of violent
26 offense and means:

27 (a) Murder in the first degree, homicide by abuse, murder in the
28 second degree, assault in the first degree, kidnapping in the first
29 degree, or rape in the first degree, assault of a child in the first
30 degree, or an attempt, criminal solicitation, or criminal conspiracy to
31 commit one of these felonies; or

32 (b) Any federal or out-of-state conviction for an offense that
33 under the laws of this state would be a felony classified as a serious
34 violent offense under (a) of this subsection.

35 ~~((28))~~ (30) "Sentence range" means the sentencing court's
36 discretionary range in imposing a nonappealable sentence.

37 ~~((29))~~ (31) "Sex offense" means:

38 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
39 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal

1 attempt, criminal solicitation, or criminal conspiracy to commit such
2 crimes;

3 (b) A felony with a finding of sexual motivation under RCW
4 9.94A.127; or

5 (c) Any federal or out-of-state conviction for an offense that
6 under the laws of this state would be a felony classified as a sex
7 offense under (a) of this subsection.

8 (~~(30)~~) (32) "Sexual motivation" means that one of the purposes
9 for which the defendant committed the crime was for the purpose of his
10 or her sexual gratification.

11 (~~(31)~~) (33) "Total confinement" means confinement inside the
12 physical boundaries of a facility or institution operated or utilized
13 under contract by the state or any other unit of government for twenty-
14 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

15 (~~(32)~~) (34) "Victim" means any person who has sustained
16 emotional, psychological, physical, or financial injury to person or
17 property as a direct result of the crime charged.

18 (~~(33)~~) (35) "Violent offense" means:

19 (a) Any of the following felonies, as now existing or hereafter
20 amended: Any felony defined under any law as a class A felony or an
21 attempt to commit a class A felony, criminal solicitation of or
22 criminal conspiracy to commit a class A felony, manslaughter in the
23 first degree, manslaughter in the second degree, indecent liberties if
24 committed by forcible compulsion, kidnapping in the second degree,
25 arson in the second degree, assault in the second degree, assault of a
26 child in the second degree, extortion in the first degree, robbery in
27 the second degree, vehicular assault, and vehicular homicide, when
28 proximately caused by the driving of any vehicle by any person while
29 under the influence of intoxicating liquor or any drug as defined by
30 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

31 (b) Any conviction for a felony offense in effect at any time prior
32 to July 1, 1976, that is comparable to a felony classified as a violent
33 offense in (a) of this subsection; and

34 (c) Any federal or out-of-state conviction for an offense that
35 under the laws of this state would be a felony classified as a violent
36 offense under (a) or (b) of this subsection.

37 (~~(34)~~) (36) "Work crew" means a program of partial confinement
38 consisting of civic improvement tasks for the benefit of the community
39 of not less than thirty-five hours per week that complies with RCW

1 attempt, criminal solicitation, or criminal conspiracy to commit such
2 crimes;

3 (b) A felony with a finding of sexual motivation under RCW
4 9.94A.127; or

5 (c) Any federal or out-of-state conviction for an offense that
6 under the laws of this state would be a felony classified as a sex
7 offense under (a) of this subsection.

8 ~~((+30+))~~ (32) "Sexual motivation" means that one of the purposes
9 for which the defendant committed the crime was for the purpose of his
10 or her sexual gratification.

11 ~~((+31+))~~ (33) "Total confinement" means confinement inside the
12 physical boundaries of a facility or institution operated or utilized
13 under contract by the state or any other unit of government for twenty-
14 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

15 ~~((+32+))~~ (34) "Victim" means any person who has sustained
16 emotional, psychological, physical, or financial injury to person or
17 property as a direct result of the crime charged.

18 ~~((+33+))~~ (35) "Violent offense" means:

19 (a) Any of the following felonies, as now existing or hereafter
20 amended: Any felony defined under any law as a class A felony or an
21 attempt to commit a class A felony, criminal solicitation of or
22 criminal conspiracy to commit a class A felony, manslaughter in the
23 first degree, manslaughter in the second degree, indecent liberties if
24 committed by forcible compulsion, kidnapping in the second degree,
25 arson in the second degree, assault in the second degree, assault of a
26 child in the second degree, extortion in the first degree, robbery in
27 the second degree, vehicular assault, and vehicular homicide, when
28 proximately caused by the driving of any vehicle by any person while
29 under the influence of intoxicating liquor or any drug as defined by
30 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

31 (b) Any conviction for a felony offense in effect at any time prior
32 to July 1, 1976, that is comparable to a felony classified as a violent
33 offense in (a) of this subsection; and

34 (c) Any federal or out-of-state conviction for an offense that
35 under the laws of this state would be a felony classified as a violent
36 offense under (a) or (b) of this subsection.

37 ~~((+34+))~~ (36) "Work crew" means a program of partial confinement
38 consisting of civic improvement tasks for the benefit of the community
39 of not less than thirty-five hours per week that complies with RCW

1 9.94A.135. The civic improvement tasks shall performed on public
2 property or on private property owned or operated by nonprofit
3 entities, except that, for emergency purposes only, work crews may
4 perform snow removal on any private property. The civic improvement
5 tasks shall have minimal negative impact on existing private industries
6 or the labor force in the county where the service or labor is
7 performed. The civic improvement tasks shall not affect employment
8 opportunities for people with developmental disabilities contracted
9 through sheltered workshops as defined in RCW 82.04.385. Only those
10 offenders sentenced to a facility operated or utilized under contract
11 by a county are eligible to participate on a work crew. Offenders
12 sentenced for a sex offense as defined in subsection ~~((29))~~ (31) of
13 this section are not eligible for the work crew program.

14 ~~((35))~~ (37) "Work release" means a program of partial confinement
15 available to offenders who are employed or engaged as a student in a
16 regular course of study at school. Participation in work release shall
17 be conditioned upon the offender attending work or school at regularly
18 defined hours and abiding by the rules of the work release facility.

19 ~~((36))~~ (38) "Home detention" means a program of partial
20 confinement available to offenders wherein the offender is confined in
21 a private residence subject to electronic surveillance. Home detention
22 may not be imposed for offenders convicted of a violent offense, any
23 sex offense, any drug offense, reckless burning in the first or second
24 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
25 degree as defined in RCW 9A.36.031, assault of a child in the third
26 degree, unlawful imprisonment as defined in RCW 9A.40.040, or
27 harassment as defined in RCW 9A.46.020. Home detention may be imposed
28 for offenders convicted of possession of a controlled substance (RCW
29 69.50.401(d)) or forged prescription for a controlled substance (RCW
30 69.50.403) if the offender fulfills the participation conditions set
31 forth in this subsection and is monitored for drug use by treatment
32 alternatives to street crime (TASC) or a comparable court or agency-
33 referred program.

34 (a) Home detention may be imposed for offenders convicted of
35 burglary in the second degree as defined in RCW 9A.52.030 or
36 residential burglary conditioned upon the offender: (i) Successfully
37 completing twenty-one days in a work release program, (ii) having no
38 convictions for burglary in the second degree or residential burglary
39 during the preceding two years and not more than two prior convictions

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1 for burglary or residential burglary, (iii) having no convictions for
2 a violent felony offense during the preceding two years and not more
3 than two prior convictions for a violent felony offense, (iv) having no
4 prior charges of escape, and (v) fulfilling the other conditions of the
5 home detention program.

6 (b) Participation in a home detention program shall be conditioned
7 upon: (i) The offender obtaining or maintaining current employment or
8 attending a regular course of school study at regularly defined hours,
9 or the offender performing parental duties to offspring or minors
10 normally in the custody of the offender, (ii) abiding by the rules of
11 the home detention program, and (iii) compliance with court-ordered
12 legal financial obligations. The home detention program may also be
13 made available to offenders whose charges and convictions do not
14 otherwise disqualify them if medical or health-related conditions,
15 concerns or treatment would be better addressed under the home
16 detention program, or where the health and welfare of the offender,
17 other inmates, or staff would be jeopardized by the offender's
18 incarceration. Participation in the home detention program for medical
19 or health-related reasons is conditioned on the offender abiding by the
20 rules of the home detention program and complying with court-ordered
21 restitution.

22 NEW SECTION. Sec. 4. OFFENDER NOTIFICATION AND WARNING. A
23 sentencing judge, law enforcement agency, or state or local
24 correctional facility may, but is not required to, give offenders who
25 have been convicted of an offense that is a most serious offense as
26 defined in RCW 9.94A.030 either written or oral notice, or both, of the
27 sanctions imposed upon persistent offenders. General notice of these
28 sanctions and the conditions under which they may be imposed may, but
29 need not, be given in correctional facilities maintained by state or
30 local agencies. This section is enacted to provide authority, but not
31 requirement, for the giving of such notice in every conceivable way
32 without incurring liability to offenders or third parties.

33 NEW SECTION. Sec. 5. GOVERNOR'S POWERS. (1) Nothing in this act
34 shall ever be interpreted or construed as to reduce or eliminate the
35 power of the governor to grant a pardon or clemency to any offender on
36 an individual case-by-case basis. However, the people recommend that
37 any offender subject to total confinement for life without the

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1 possibility of parole not be considered for release until the offender
2 has reached the age of at least sixty years old and has been judged to
3 be no longer a threat to society. The people further recommend that
4 sex offenders be held to the utmost scrutiny under this subsection
5 regardless of age.

6 (2) Nothing in this section shall ever be interpreted or construed
7 to grant any release for the purpose of reducing prison overcrowding.
8 Furthermore, the governor shall provide twice yearly reports on the
9 activities and progress of offenders subject to total confinement for
10 life without the possibility of parole who are released through
11 executive action during his or her tenure. These reports shall
12 continue for not less than ten years after the release of the offender
13 or upon the death of the released offender.

14 NEW SECTION. Sec. 6. SEVERABILITY. If any provision of this act
15 or its application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. Sec. 7. SHORT TITLE. This act shall be known and
19 may be cited as the persistent offender accountability act.

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Violent Crime Strikes a Chord Coast to Coast
'3-Time Loser' Laws Find Diverse Support

By Pierre Thomas
Washington Post Staff Writer

New York Gov. Mario M. Cuomo and California Gov. Pete Wilson, two men who stand at opposite ends of the country and the political spectrum, recently gave surprisingly similar speeches within hours of one another. They both proposed to lock up - for life - any person convicted of three violent felonies.

"Violence and crime have taken on a terrible urgency and we are determined to move quickly and decisively to protect our people," said Democrat Cuomo in his State of the State address. "In baseball, it's three strikes and you're out. Here, it's three strikes and you're in for life. Life imprisonment without parole."

Soon after, Republican Wilson told Californians:

"Every Californian has a fundamental right not to become a crime victim . . . and not to live in fear. . . . If you commit a violent crime, you're going to do serious time. . . . Three strikes, you're out. . . . Put three time losers behind bars for life."

The ironic agreement between the liberal Cuomo and the conservative Wilson, both running for reelection with low approval ratings, reflects the emergence of violent crime as a significant and popular issue for many Americans.

The speeches illustrate widespread citizen concern that the criminal justice system is too lenient and a growing belief that some people cannot be rehabilitated and need to spend their entire lives in prison.

Voters in Washington state approved a "three-strikes" measure last November by a 3-1 ratio. Legislation was introduced in the District in November, and similar proposals soon may be considered by as many as 30 state legislatures, including Virginia's. Georgia Gov. Zell Miller (D), citing complaints by constituents, recently called for a two-strikes-and-life law.

Such measures are among myriad crime initiatives that will be before state officials this year, including gun control provisions and a slew of proposals aimed at combating juvenile crime.

But skeptics say the three-strikes laws are grandstanding gestures that would overload prisons without attacking the real causes of violence.

Even so, the similar positions of Wilson and Cuomo show that violence is an "issue that crosses party lines," said Dan Schnur, communications director for the committee overseeing Wilson's reelection bid. Although there is evidence that crime is decreasing, "there is a randomness to the violence that never existed before - big city or small."

Politicians are reacting to the public realization that "it (violent crime) can happen to them" anywhere, any time, said Gwen Holden, executive vice president of the National Criminal Justice Association. "People used to think that if they took certain risks, like walking in a dark alley, they would be vulnerable. Now people realize that 'I could be riding on a commuter train and some guy who is ticked off could start shooting.' "

Americans are scared, Cuomo said. And when people "get frightened," they "get angry."

"When you're scared, you're angry, and when you're angry, you're violent."

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A 1992 Justice Department study of 79,000 felons from 17 states showed that in a three-year period, 43 percent had been rearrested on charges of committing another felony. Twenty-three percent of the new arrests were for violent crimes.

Another Justice report, completed in 1987, revealed that in many states the median term for murder and nonnegligent manslaughter was 6 1/2 years, including pretrial jail time; for rape the typical prison stay was 3 years, 8 months. Most criminals documented in the report served less than half of their sentences.

News stories of repeat offenders committing new acts of violence also have stoked the public fervor. In California, for example, one rallying point for the three-strikes proposal was the Polly Klaas case. The 12-year-old was kidnapped from her home during a slumber party and strangled. The suspect in the death had been convicted of serious crimes six times and was on parole when the offense occurred.

Many have concluded "that given the grotesque nature of crime, we ought to put some people away forever and label them as incorrigible . . . or to kill them," said Cuomo, who is an opponent of the death penalty. "It's an unhappy conclusion . . . perhaps a tragic one."

One reason for the shorter prison terms for violent offenders may be the inmate population explosion resulting from the mandatory sentences of the war on drugs, said James Fyfe, a criminologist at Temple University.

"The war on drugs reduced our ability to deal with violent offenders," Fyfe said, noting there is not enough prison space to hold everyone. "That may have been a mistake. . . . We've got to set priorities."

And some officials wonder if, in the rush to curb violence, the public and politicians might be rushing into another ill-advised and costly quick fix.

Three-strikes measures "sound snazzy," said Nkechi Taifa, legislative counsel in the American Civil Liberties Union's Washington office. "The only three-strikes loser would be the public. . . . These bills may sound tough, but they aren't smart."

Certain ethnic groups, particularly African Americans, could be disproportionately locked away for life because they live in areas targeted for "selective enforcement" by law enforcement agencies, she said.

Such measures also would increase prison operating and capital costs and create new divisions of "geriatric" prisoners "pushing their walkers around prison," said Taifa.

If the three-strikes measure is approved, Schnur of California estimates that the additional prison operating costs - which do not include capital outlays - would grow from \$415,000 in the 1995-96 fiscal year to \$28.6 million in 1996-97, \$200 million in 1998-99 and \$561 million by 2014. However, Schnur maintains that the costs would be "significantly" offset, in part by the savings in law enforcement, court and medical costs of taking repeat offenders off the street. Eventually, there might be fewer crimes, and as a result, lower court costs, hospital bills and a need for fewer police resources.

Still, while the evidence is clear that some criminals are chronic offenders, setting up a system to catch such people is difficult, some experts said.

"We know these people (chronic repeat offenders) exist, but we are terrible at guessing who these people are," said Edwin Zedlewski, an economist with the National Institute of Justice. "For every one person you lock up, you may miss one. Some of the worst repeat offenders are smart enough to avoid the system and never get caught. It is extraordinarily difficult to separate these people out."

Cuomo acknowledges that such programs, by themselves, will not end violent crime.

"There is no magic solution," Cuomo said. "You must have strong laws, strongly enforced, but you must also deal with the underlying issues, poverty, degradation. . . . You have to do it all from A to Z."

Having said that, Cuomo also pointed out that despite the costs, society

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must have been several criminals who mock the criminal justice system. "If you're convicted of three violent crimes, there are probably 30 to 40 others that you didn't get arrested for," Cuomo said.

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The New York Times

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SUNDAY, DECEMBER 26, 1993

Printed in
U.S.A.

Drive to Keep Repeat Felons In Prison Gains in California

By JANE GROSS

Special to The New York Times

FRESNO, Calif., Dec. 23 — When Mike Reynolds vowed a year and a half ago to find a way to keep repeat offenders locked up for life, it seemed just a howl of pain by a grieving father whose teen-age daughter had been shot in the head at point-blank range by a man with a long criminal record.

But Mr. Reynolds's personal crusade to tighten sentencing for career criminals has become a political juggernaut here in California, the scene in recent weeks of several high-profile crimes, including the abduction and slaying of 12-year-old Polly Klaas at the hands of a twice-convicted kidnapper.

Until Polly's body was found early this month, few outside this Central

Valley city knew anything about the 1992 slaying of Kimber Reynolds, 18, who was leaving a restaurant with a friend when a man tried to steal her purse and instead shot her with a .357 Magnum revolver.

Aimed at Chronic Criminals

And fewer still knew that her father, a wedding photographer, had responded by writing a ballot measure that would double and triple sentences and limit parole opportunities for chronic criminals like the one who killed his daughter, who dreamed of a career in fashion and was buried in a silver lame prom dress of her own design.

But in recent weeks Mr. Reynolds's ballot measure has become a rallying cry. Frightened by the spread of random violence in their neighborhoods and struck by how often those crimes are committed by repeat offenders, California voters are signing petitions for the Reynolds measure at the rate of 15,000 a day.

Patterned on a Washington State initiative, although stricter in many ways, the measure, known as Three Strikes and You're Out, is expected to qualify easily for next November's ballot and, if current public opinion holds, win by a landslide. And 30 other states are looking into such initiatives, which experts say could be the hot issue of next year's campaign, as term limits were for a sour electorate in 1992.

The popularity of such measures can

3 STRIKES
YOU'RE
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Continued on Page 12, Column 1

The New York Times

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Continued From Page 1

be understood by skimming the morning newspaper or watching the evening news. Despite statistics that show a drop in violent crime, each day offers a roster of victims who have been set upon in relatively safe places by assailants with long criminal records.

That was the case with Uwe-Wilhelm Rakebrand, a honeymooning German tourist killed in a rental car as he left the Miami airport. Or James Jordan, the father of the basketball star Michael Jordan, shot in the chest while napping in his luxury sedan beside a road in North Carolina.

It was also the case with Polly, snatched from her bedroom during a shambor party in rural Peotoma while her mother slept nearby. And Kimber, who was slain not on the mean streets of Los Angeles, where she was studying fashion design, but during a weekend visit here to be a bridesmaid in a friend's wedding.

"What these crimes have done is show people that you can do all the right things and it doesn't matter," Mr. Reynolds said. "You can lock your door, stay in the right neighborhoods. Not when you come up against one of these creeps, the rules don't matter. They're hunting you."

"When bad guys are killing bad guys, that's one thing," he added. "But when they start killing regular people, that's where you draw a line in the sand. That's what's driving people crazy."

From Trickle to Tidal Wave

That moment of collective horror came here in California with the killing of Polly Kins, a case that riveted the nation for months and turned a trickle of support for Mr. Reynolds's initiative into a tidal wave.

Until then, Mr. Reynolds's campaign was a relatively lonely one. On a shoestring budget — the money he and his wife, Sharon, were saving for a mountain cabin — a few volunteers had gathered 25,000 signatures, less than a tenth of what was needed.

Around Thanksgiving, Mr. Reynolds was invited to appear on a San Francisco talk radio show, which inspired about 40,000 people in the Bay Area to sign petitions. But still, the measure lagged far behind the 345,000 signatures needed to put it before the voters.

Then Polly's body was found at an abandoned lumber mill. A San Francisco radio station, KGO-AM, suggested that listeners vent their grief and frustration by calling Mr. Reynolds.

By Monday morning, the voice mail system in the Three Strikes and You're Out storefront headquarters had crashed under the onslaught of calls. Within a few weeks, more than 300,000 signatures were gathered. And these days, the letter carrier staggers into the campaign office bowed under the weight of his mail bag.

Angry Letter Writers

The mail is angry, more punitive than the measure itself, which mandates double the usual sentence for a second serious felony and triple the usual sentence or 25 years to life, whichever is longer, for a third. By contrast, the Washington State measure, which passed last fall with 78 percent of the vote, does not enhance sentences until the third felony.

One typical letter writer was not satisfied. "What it needed is three strikes and you're done," he said. "We



Mike Reynolds's personal crusade to tighten sentencing for career criminals has in recent weeks become a rallying cry in California, with voters frightened by the incidents of random violence in their neighborhoods.



Kimber Reynolds, Mr. Reynolds's daughter, who was shot and killed in 1992 by a man trying to steal her purse.

can't afford to warehouse this load of human debris."

Unlike the Washington State initiative, the California measure also restricts time off for good behavior so that a felon must serve 80 percent of any sentence rather than half, as is often the case now.

An initiative that could be a hot political issue next year.

But repeat felons deserve worse than that, the volunteers at the Three Strikes headquarters said, echoing the letter writers. "I'm for stricter things, like no conjugal visits and shut down the prison libraries," said Carl LaTella, a retired banker.

Supporters of Mr. Reynolds's measure, including Gov. Pete Wilson and the State Attorney General, Dan Lundgren, both Republicans, are confident that it will have a sweeping effect if it is passed. But that is impossible to judge at this point.

No Estimate of Costs

In Washington, 40 to 70 felons a year were expected to meet the criteria of that state's initiative, corrections officials projected, but none have been charged under the statute in its first month. No similar projections have been made in California, although there is widespread agreement that more people would be affected because of the stringency of the measure and the size of the criminal population here.

Nor has anyone predicted how much the measure would cost if it went into effect, a calculation normally made after an initiative has qualified for the ballot. It is assumed that extending the sentences of so many felons would cost the state billions of dollars in increased prison costs, while saving cities and counties some money because there would be fewer repeat prosecutions.

Measures like the one in Washington and the one proposed here in California are expected to be more effective than the so-called habitual offender laws on the books in 17 states because they are broader and their application is mandatory. The 17 state laws, by contrast, generally give prosecutors and judges wide discretion about whether to charge felons as habitual offenders, and tend to be narrower about which criminals qualify for the longer sentences.

There is broad consensus among criminologists that a small percentage of repeat offenders are responsible for the vast majority of violent crime. But experts are divided about whether targeting repeat offenders for life sentences is an effective remedy.

William J. Bennett, the former Secretary of Education who is now the director of Empower America, a conservative advocacy group, said such measures are a worthy way to reduce the "frustration level of Americans who see people engaging in violent acts and not doing their time."

Expensive Old-Age Homes

But opponents say the measure, however satisfying to frustrated voters, is bad public policy because it would crowd the prison system with aging felons without having much impact on rates of violent crime.

"It'll stop a few guys, and that could add up to big numbers in California, but mainly it will just create the most expensive old-age homes in the world," said Peter Greenwood, the acting director of the criminal justice program at the Rand Corporation, a Southern California research center.

But stopping a few guys would be enough for Mr. Reynolds, who said his campaign for new sentencing standards is what has kept him sane since that summer evening a year and a half ago, when the youngest of his three children joined her two brothers in a softball game and then went out for coffee and cake with a friend.

PHOTO BY DERRY FIELDS FOR THE NEW YORK TIMES

At the court left the Daily Plaza restaurant at 10:45 P.M. two young men on stolen motorcycles wheeled to the curb. One of them grabs Kimber's purse. When she struggles, the assailant sticks the barrel of his gun in her ear and pulled the trigger.

Shortly after Kimber's death, Mr. Reynolds went on the radio here, begging for a witness or an informer who could help find his daughter's killer. A friend of the gunman did just that, leading police to 25-year-old Joe Davis, an amphetamine user who had been convicted and jailed repeatedly for armed robbery, auto theft and drug use.

Nine Years for Accomplish

Mr. Davis died in a gun battle with the police. His accomplice, Doug Walker, 27, also a drug user with a criminal record, pleaded guilty to armed robbery and accessory to murder. He was sentenced to nine years in prison. Under current law, he would serve half that time.

Mr. Reynolds said that he is haunted by feelings that he was not able to protect Kimber in the final months of her life.

Once she called him from Los Angeles because her car would not start and he was struck by the realization that "there comes a time you can't share for a child." No later bought a cellular telephone so she could call for help in case of a highway emergency. But the phone was stolen.

And these were but precursors to Mr. Reynolds's ultimate helplessness. "You never stop reliving the last moments of your child's life and wondering what you could have done to prevent it," he said. "If I was standing there with a gun I don't think I ever have stopped him. But I might have shot him before he got down the street."

There are other things we need to do, and I'll just mention them very quickly:

We need drug testing at all stages of the criminal justice process...for bail, for probation, while in prison, while in jail, while on parole...because we know that people commit four to six times as many crimes when they're using drugs compared to when they are not.

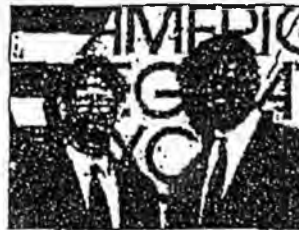
We need to put the heat on the federal government to do more on the illegal alien problem. I know the states in the Southwest particularly are aware of that, and that's a whole topic in itself.

We need to take another look at how our prisons are managed, and whether they are being effectively managed, and whether they are places that deter criminals. And this means perhaps looking at whether the discipline that is necessary for these people to comport their lives within the law is being exercised while they're in prison.

And finally, I think citizens need to be educated to the fact that today we're only spending three percent of our total tax dollars on the justice system, including the police, courts, prisons, and the civil justice system as well. If people agree with us that protecting the public from those who would prey on them is a vital part of defense, then just as we've been willing to make sacrifices for our external defense, we need to make a serious investment in our defense at home. At a time when we are able to reduce spending on the military because we've been successful at fighting and winning the cold war, shouldn't we consider using part, or all of these savings, for fighting crime at home? Just going from three percent to four percent of our total tax dollars would give us tremendous resources to build prisons, add police officers and enough courts and judges so that, once again, society would be able to tell the criminal that when you commit an offense against our people, you're going to pay the cost. And the cost will be considerably greater than it is at the present time.



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Reforming the Civil Justice System

Governor Mike Symington of Arizona

Thank you. It's great to be here. And members of ALEC, congratulations on your 20th anniversary.

I am really blessed as a governor to have an extraordinary group of individuals in our legislature, in our leadership in the legislature, who really work well together. We focus on issues well together, we plan ahead. We do things that frankly Arizona hasn't seen in twenty years, and I'm very, very proud of the leadership. It's extraordinary because for many years we have been unable to have short, productive sessions; we've had long and, I think, sometimes very unproductive sessions. But this year I believe is the first time in some twenty years, Brenda, (Ariz. Representative Brenda Burns) that we got in and out in about ninety days and we passed our budget in 65 days.

The year prior to that occurrence we went right up to our constitutional deadline of June 30, and had what some would refer to as an altercation at the end because I wanted to have tax reduction. My fellow believers in limited government and reduced regulation in the legislature wanted to have a tax reduction, but we couldn't get it through the Senate, and so we were within hours of shutting state government down. We had the National Guard ready to take over public safety and the prisons, and we were going to literally close our state government down because, unlike California, we don't issue warrants, we can't keep going, we've got to close. And I remember having a conversation with Brenda; Mark Killian, the Speaker of the House; and John Greene; and Tom Paterson in the Senate, and I looked at them and I said, "You know, my greatest fear is if we shut government down we're not going to be missed."

Well, fortunately, we didn't have to shut it down and we got our budget passed, but it was really tough. But

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Now doesn't that fellow remind you of Bill Clinton telling us that the American people are prepared to sacrifice? Anyway, you may want to join those of us who will be presenting an alternative to the Clinton plan. I can assure you that I will be one of the sponsors of the market based approach that I discussed today.

I hope you'll join us in that effort, and I wish you all the very best as you work in your respective states for all of the citizens of this great nation.



Congressman Kyl was elected in 1986 and has rapidly established a reputation as an effective legislator, a strong proponent of fiscally responsible government, and an expert on national defense and health care. Congressman Kyl is helping to shape the national health care debate by offering free market alternatives for health care reform.



Making Criminals Pay: Solving America's Violent Crime Problem

**The Honorable Edwin Meese III
Former U.S. Attorney General**

Thank you very much ladies and gentlemen. It's a great privilege to be with you, and believe me, I am happy to be here with you today.

As Representative (Jerry Lee) Alwin (N.M.) mentioned, the Heritage Foundation and ALEC are close

partners, and I've certainly enjoyed the opportunity to work with your leaders. Certainly, Sam Brunelli and his staff are an outstanding group, as you know from your own personal experiences, and I was always interested in the active role in leadership that Bill Raggio. I've known Bill for longer than he'd probably want to admit...from the days when he was a District Attorney in Nevada and I was in the District Attorney's office in Alameda County in California. We worked very closely together at that time. So it's a pleasure to be here, especially since I will have the opportunity to discuss with you the issue of violent crime in America. There is no more important challenge facing our nation today.

One of the things that I think we have to recognize is the fact that crime has been, for many years now, the top thing that people worry about when they're asked, "What is the greatest domestic problem?" Periodically it gets eclipsed by the economy when we have high unemployment or when we have economic difficulties, but year in and year out, it's always in the top three or four topics that concern people.

And when we try to get the economy going, or when we try to work on the problems of the inner cities, or try to improve education, inevitably at least one of the trails of solutions leads to doing something about crime. You know from your own experience what's happened, and so I'd like to share a little bit with you from my own experience.

But first, I think it's important to recognize what's happened since World War II in terms of crime. In the 1950s, and from the period just after the war through the fifties, there was a philosophy in our country among almost all criminologists, that incarceration was a bad thing. And so almost every idea other than prison was used to take care of convicted criminals.

And so by the sixties, we found in California, when Ronald Reagan became Governor in 1967, that less than ten percent of all felons, the most serious criminals, were going to prison.

Well, over the course of the late sixties and the seventies, he was able to change that by appointing judges in California who had a different view. But throughout the country this was the prevailing sentiment.

And that's why we had during that period, from 1960 roughly, to 1980, we had the largest increase in crime in the history of the country...a 300 percent increase in

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