

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7908

● HOUSE JUDICIARY ●

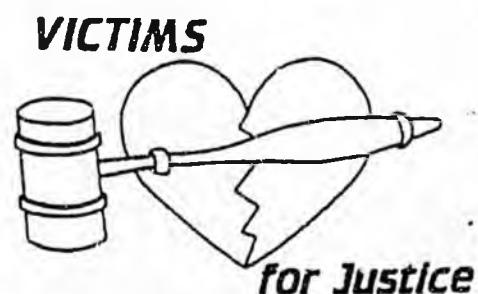
173

RECEIVED  
MAR 11 1993  
Ass't.....



**POSITION STATEMENT  
FROM THE COALITION OF  
THE ALASKA PEACE OFFICER'S ASSOCIATION  
and MOTHERS AGAINST DRUNK DRIVERS**

before the  
19th Alaska Legislature  
March 1993



## ISSUES RELATING TO THE JUVENILE JUSTICE SYSTEM

The following are suggested changes to the current statute/rules relating to Juvenile Criminal laws/procedures.

1. **JUVENILE WAIVER (SB 54)** - People ages 16 and 17 charged with an Unclassified or Class A Felony (these are violent crimes against people) should be treated as adults and prosecuted in adult court.
2. **CONFIDENTIALITY** - There is an assumption that confidentiality in criminal matters relating to juveniles will prevent recidivism. The basis for this assumption is questionable. As a result of confidentiality, there is no public awareness of the crime or the criminal. Reaffirmation of societal norms is minimized. The victim as well as the entire community needs to have an ability to voice their outrage and condemnation. There should be non-confidential sentencings to allow public scrutiny into the juvenile criminal justice system. We propose a change to allow a juvenile's first criminal charge be handled in a confidential manner. After the first conviction, all other criminal proceedings should be handled publicly.
3. **TWELVE PERSON JURIES** - In adult court, those charged with misdemeanors are entitled to a six person jury; felony defendants get twelve person juries. The Delinquency Rules of Court allow all juveniles charged with any crime, misdemeanor, or felony, to be tried by a twelve person jury. With the constraints on the court system and the attorneys for both the prosecution and defense, this puts an undue burden on the system. Juveniles charged with misdemeanors should get six person juries like adults.
4. **JUVENILE SENTENCING** - Under Title 12 of the Alaska Statutes, Courts may only use an adult's juvenile criminal history as an aggravator. The court should be required to review any juvenile criminal records. We recommend in cases where an adult with one prior juvenile adjudication on a felony charge is being sentenced on a felony in adult court, the judge should consider the juvenile record as an aggravator for a subsequent adult felony conviction. If the

adult has more than one juvenile felony adjudication, the court should be required to use presumptive sentencing. If presumptive sentencing does not apply to the particular offense, the court should consider the juvenile record as an aggravator to the possible sentence.

Further, there should be statutory guidelines for the sentencing of the juvenile offender similar to the Chaney Criteria for adult sentencing. The juvenile's probability of rehabilitation should be evaluated, but it should not be the overriding consideration. The judge should also be required to base his sentence upon the need to isolate the offender, to fashion a sentence based upon community condemnation of the offender and deterrence of other juveniles who are likely to know or learn about the case.

5. **RESTITUTION** - The principle crimes committed by juveniles are property offenses, in particular, burglaries, thefts, and auto theft. The punishments for these crimes should be more severe. Presently, there is no reason for the offender to stop offending. As a matter of policy, courts do not order juveniles to pay more than \$2000 in restitution. The principle of restitution is to make a victim whole within the possible means of the offender.

Further, restitution orders by the court are presently not enforceable after the juvenile reaches 19 years of age. If a juvenile makes only token payments until his or her 19th birthday, the court loses jurisdiction and the balance of the restitution owed can not be compelled. The juvenile's debt to the victim should survive his 19th birthday and the court should retain the authority to force restitution.

6. **INSTITUTIONALIZATION** - The Court of Appeals in R.P. v State (718 P2nd 168) held that institutionalization of juveniles should be used only as a last resort, that juveniles should be placed in the least restrictive placement. Rehabilitation is an important goal, however it should not be at the expense of the protection of the community. These goals are not mutually exclusive. With more rehabilitative efforts within the institutional environment, these goals can compliment one another. The court should also be mindful of protection of the community and the other sentencing criteria mentioned above.

**ALASKA PEACE OFFICERS ASSOCIATION**

Anchorage Chapter  
P. O. Box 103824  
Anchorage, AK 99510  
Phone: \_\_\_\_\_

February 17, 1993

Senator Rick Halford  
State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Halford,

Alaska's current juvenile justice system has repeatedly demonstrated an inability to effectively deal with the violent and recidivist youthful offender. The time and energy of police-prosecutor resources designed under the current law to waive a juvenile into adult court has resulted in waiver of only a handful of these hardened juveniles even though violent crimes by Alaska's youth is on the increase. All too often when a particularly dangerous juvenile is waived into adult court the defendant then embarks upon a time consuming appeal as the state's case grows stale, witnesses memories fade, victims and their families grow cynical and police become involved in new cases.

Because SB 54 is tailored to address these shortcomings in the existing statutory fabric it is strongly supported by the Alaska Peace Officers Association.

Unlike House Bill 100, which would permit a juvenile who has been waived into adult court to appeal that finding--a flaw in the current law--SB 54 mandates *automatic* waiver for all 16 and 17 year old who commit Class A and unclassified felonies without the requirement that the state prove that the defendant is not amenable to treatment. This means there will be no court ruling to appeal, so precious resources can be focused on taking the defendant to trial on the merits of the offense shortly after the crime occurs.

Another major shortfall of HB 100 is that it is simply so complex a piece of legislation that it is unworkable by the officer on the street upon whose shoulders it will fall to enforce it. Will the officer who finds himself in the middle of a fast breaking investigation be able to ascertain the suspect's prior juvenile criminal history (which records are sealed)? Will he correctly elect to transport the suspect to the McLaughlin Youth Center or similar facility or to the police station for questioning? Will he be correct in his decision not to notify the suspect's parents? Do the Alaska Children's Rules apply?

SB 54 will eliminate all of these concerns for Alaska law enforcement officers who will need to know only one piece of information: What is the suspect's age?

In short, SB 54 will permit police to more effectively focus their limited resources on Alaska's most dangerous offender: the hardened chronic juvenile who commits a serious crime of violence.

Respectfully yours,



Linda Branchflower  
Chairman-Legislative Committee  
Alaska Peace Officers Association

# Alaska Association Chiefs of Police



February 25, 1993

Senator Rick Halford  
Alaska State Capitol  
Room 111  
Juneau, Alaska 99801-1182

Dear Senator Halford:

On behalf of the Alaska Association of Chiefs of Police I would like to offer our support for Senate Bill 54. While there are other bills that deal with the issue of Juvenile waivers, SB 54 is cleaner in its language, is easier to understand, may result in less litigation, and has added amendments that deal with juvenile property crime.

The manner in which the criminal justice deals with juvenile offenders may have been appropriate 20 years ago, but not today. Juveniles are involved in more than the "petty offenses" that drove the thinking behind our current approach to the juvenile offender. Juveniles today commit a significant percentage of the violent crimes in Alaska and are responsible for an increasing number of the full spectrum of felony crime.

We believe that Senate Bill 54 is an effective way to combat the growing area of juvenile crime. If we can be of any assistance in the passage of this bill please let me know.

Very truly yours,

A handwritten signature in cursive script, which appears to read "Ronald L. Otte", is written over the typed name.

Ronald L. Otte  
President

RLO/lp

# Senate's juvenile crime bill would balance scales

3.12.93

By PAUL JENKINS

The state Senate has sent to the House of Representatives a good piece of legislation we should strongly support, lest it get lost in a high shuffle.

The measure, SB54, would go a long way toward balancing the scales in dealing with juvenile criminals and actually shows the little dears that crime is not supposed to pay. It would make four basic changes to the law.

First, under current law, a prosecutor must petition a judge for permission to haul a youngster charged with a serious crime into Superior Court for trial as an adult.

This bill, initially put together by Sen. Rick Halford, R-



Jenkins

Chugiak, would change that by mandating that 14- to 18-year-olds be tried as adults under certain conditions: Those would include charges of unclassified or Class A felonies such as murder, kidnapping, rape and first-degree arson.

And Junior also automatically would go to court as an adult if he previously had been charged with a crime against a person, already had been determined to be delinquent or had been convicted as an adult of a felony crime against a per-

son here, or anywhere else.

Second, the measure would resolve the problem of what to do with Junior when he screws up and is convicted as an adult.

Now, a judge can remand him to the custody of Department of Health and Social Services — where he can be a wonderful role model for other juveniles being held for lesser offenses — or order him into prison, where he would be held in custody separate from adults.

The Senate bill would end that. If convicted as an adult, Junior would get to serve his time in jail as an adult, without being segregated because of his age.

Third, SB54 would end the charade of automatically sealing Junior's records. Under this measure, all records of criminal convictions — felonies and misdemeanors — from the age of 16 on would be there for all the world to see. So when Junior and his buddies get together to assault somebody, tear down Christmas decorations or engage in any other "mischief," they will get to carry their convictions with them.

And it would allow victims of property or personal crimes committed by a minor of any age to get a peek at the official record and use the information to sue the pants off Junior, his parents or legal guardians.

And, fourth, Junior would get to pay

for his sins.

Judges now are not required to order restitution for property crimes or crimes against people. And it's tough to sue young criminals for damages because the juvenile justice system keeps their records confidential so they will not be barred from medical school later.

The Senate bill requires that judges order restitution if Junior is adjudicated a delinquent, and allows victims to go after his Permanent Fund dividend and forbids sealing of his records if court-ordered restitution is not paid.

As it is now, when Junior turns 19, juvenile court judges have no jurisdiction to insist he pay what he owes to his victims.

The bill now is in the House Judiciary Committee.

You might want to give your legislators a nudge in the direction of passing this measure. The Legislative Information Office's nifty, free 60-word messages to lawmakers are a good way to start.

The good part about supporting legislation like this is that it will not make a bit of difference for the 99 percent of the kids out there who are good citizens.

The best part is that it will get the attention of that other 1 percent the very first time they stray over the line.

Paul Jenkins is an editor of The Anchorage Times.

# THE VOICE OF THE TIMES

## Some kids need more punishment than slap on hand

By PAUL JENKINS

Remember Alex Felker? He was the guy clubbed and beaten by five punks as he walked along Spenard Road just before Christmas. Guess what? Three of those same little darlings went on an even more violent spree just days later. This time, the bunch had a gun. This time they hurt someone else.

In the most recent episode, it's alleged they — and a few new buddies — rolled a drunk, tried to carjack a pizza delivery guy, stole a woman's car at gunpoint, shot at a cab driver and attacked and seriously injured a 15-year-old boy waiting in a car for his parents to come out of the Fred Meyer store on Northern Lights.

What else they were up to that night is anybody's guess. But what they did during those two nights could have happened to any of us unfortunate to be in the wrong place at the wrong time.

All these thugs are between 15 and 17 years old. At least two of them are known to juvenile authorities for past property crimes. They have fallen into the category of being the usual suspects when things like this happen. And you wonder why cops get a little cranky.

If there is a recent case that graphically shows why kids involved in violent crimes should automatically be charged and treated as adults, here it is.

If the three clowns involved in beating Mr. Felker — and who were involved in the crime spree a few days later — had been charged as adults to begin with, they likely would not have been on the street to be involved in the second round of fun. And the knowledge that the law was coming down hard on them may have kept their buddies off the street as well.

As it is now, they have the protection of the juvenile justice system. We don't know who they are. For all we know, they're living next door. We likely won't know what happens to them. But in comparison to what they would have gotten in adult court, they'll just get their little hands slapped. All of this, of course, is designed to let the little dears grow up and become responsible adults without the onus of a criminal record.

That's great. Those same protections saved my butt when I was a punk kid and



went over the line. But then, my friends and I didn't try to shoot anybody or club them or hit them in the head with hockey sticks. We were stupid and insensitive, but we weren't violent.

And teen-agers have not changed. Kids, good kids who will grow up to be good citizens, do crazy, non-violent things. Get them together and the lowest-common-denominator thing goes to work. They become hormones with ears. But, hopefully, it passes. They should be allowed to grow up, get into college, get jobs and proceed with their lives when their brains actually begin to function.

But violent kids can grow up to be violent adults. If they have a career track leading to more and more violence, we should be trying to derail them now, before some poor soul has to deal with them in the middle of the night.

I think when you're 15, 16, 17 years old you should have a vague notion that hurting someone else is wrong, and when you step over the line, you should pay. About 99.5 percent of the kids know that. It's time to deal with those who haven't gotten the word.

This bunch has been lucky twice. They didn't kill anybody, despite their being armed and shooting a gun. Nobody killed them, despite this being a city where any

number of people could, and would love to, shoot back. That kind of luck is not going to hold forever.

It's well past time for a slap on the hand for these kids and others like them who haven't gotten the word that such behavior is wrong.

The Alaska Peace Officers Association is drafting legislation that would be a big step in the right direction.

Among other things, it would:  
 -Prosecute 16- and 17-year-olds as adults when they are charged with committing a felonious violent crime against a person.

-Retain confidentiality for juveniles charged with misdemeanors for the first crime only. One freebie for dummies like me. After that, it's tell-all and show-all.

-Change the law to make judges consider juvenile records as aggravating circumstances when sentencing a person as an adult.

-Ensure that juvenile court-ordered restitution continues after an offender's 19th birthday. Now, when junior hits 19, such orders cannot be enforced.

It's a start. It's a darned good start.

One thing is certain. Something needs to be done — soon. The system as it stands now is just not working.

Paul Jenkins is an editor of The Anchorage Times.



Jenkins

# Revamp juvenile system or give up our streets

by PAUL JENKINS

Alex Felker thinks kids may be changing, getting more malevolent, more violent. He bases that on recent experience with a pack of punks in Spenard who gave him 6 stitches around his right eye, a busted lip, a painful lump on the back of his head, a cut on his forehead and too many bruises and scratches to count.

His offense? He says he had left his job on the North Slope, stopped in Anchorage to buy Christmas gifts for his family in the bush and went for a walk to a nearby convenience store. He says he was minding his own business. That somehow offended the five juveniles hanging around a convenience store. They cursed him, screamed at him, chased him down in their Subaru Brat.

They did that even after he crossed the road to avoid a confrontation; even after he made it clear he wanted no problems.

They punched and kicked and clubbed the 37-year-old, unemployed emergency medical technician bloody. They beat him to the ground right beside Spenard Road, with traffic whizzing by a few feet away. At least one of them wielded a large flashlight or club in the attack.

If a cab driver had not stopped, Alex Felker might well have gone home in a coffin to his wife and four children at Crooked Creek — a small village in Southwest Alaska on the Kuskokwim River.



Jenkins

"They were really whaling on him," says the cab driver; who asked not to be identified. "He was out on the ground. They really did it to him. He was just covered with blood."

The cab driver says when he saw what was happening and stopped, he inadvertently blocked the assailants' vehicle. Felker and the driver got the Subaru's license tag number, and Felker says he reached into the vehicle and grabbed its keys before his assailants could speed away — getting bashed again on the head and knocked senseless in the process.

"Then the punks did what punks do. They ran away."

"They said, 'We'll get you, too,' as they fled, the cab driver says. "I just can't understand it. Why in the middle of Spenard Road? It was very public."

Felker says he doesn't know why either. "It looked like they were a rowdy bunch,



and they were just looking for someone," he says. "I happened to be that person."

Felker now faces what he estimates will be a \$600 hospital and ambulance bill. He has no medical insurance. He has no job.

But Felker, who says he wouldn't raise his kids in Anchorage on a bet, is lucky. The cab driver is lucky. And most of all, the kids — stupid, invulnerable and sadly mean — are lucky.

They are lucky Mr. Felker was not killed. They are lucky they were not hurt or killed.

And they are lucky we have a juvenile justice system that will protect their identities and never acknowledge that violent kids are as dangerous as violent adults. They are lucky it's a system built on the premise that kids can be rehabilitated, and that it is a system geared to the notion that juveniles cannot commit real crimes.

Make no mistake: what happened to Felker was a crime. His attackers were coldly cruel and violent and malicious, and while they may end up paying some restitution, they never will have to pay the full price for what they did.

As of early this week, only one had been charged with assault. But it's likely, authorities say, the rest also will be charged. That may be all we'll ever know about the case, the system being the way it is.

You have to wonder what makes some kids do things like this, why they go well beyond the bounds of normal teen-age yahoism. You have to wonder why they think almost beating someone to death is acceptable.

We can blame it on television and Hollywood. We can blame it on broken homes or rotten parents or poor nutrition or poor pottery training. We can blame it on drugs, alco-

hol, abuse — almost anything. All these things most certainly could play a role. We can find any number of reasons why junior, in his pointed little noggin, finds it necessary to nearly kill someone for fun.

But all that doesn't explain the millions of teen-agers who are good citizens despite those adversities, and more.

Nope, it's time to lay the blame where it belongs. Squarely in junior's lap. He does it because he thinks he'll get away with it, and it's that simple.

\* Junior needs to know, and learn to believe, that violence is unacceptable, that it will not be tolerated, that it will be met with swift, sure justice. Those few need to know early on there is no room in school or on our streets for violent punks. We must make that known without losing sight of the fact that most teen-agers who screw up only need a firm nudge and time to get them back on the right track.

\* With the Legislature about to convene in Juneau, we should start letting our lawmakers know we are dissatisfied, that it's time to change the juvenile system to identify and punish those with violent tendencies.

This time, when five punks thought it would be OK to nearly kill someone, their prey was a guy lucky enough to survive, but it could have been any one of us, or our loved ones. A flat tire, an overheated engine or any other car problem — or just going for a walk — could have put any of us on that street, at that time, in those circumstances. We might not have been so lucky.

We can either start working to fix the system, or give up our streets and neighborhoods to punks.

Paul Jenkins is an editor of The Anchorage Times.

# THE VOICE OF THE TIMES

## 'Just being kids' no excuse for criminal activity

By PAUL JENKINS

A harmless prank?

Destroying Nativity scenes, stealing street signs and construction barricades is a prank? Ripping up the hard work of people who just wanted to have Christmas decorations on their property is a lousy, harmless prank?

No, it's not.

At the very least it's malicious mischief and theft. It's stupid, wrong and disgraceful.

Day after gut-wrenching day, on the front pages of newspapers across this nation, there are the children — starving, dying children in faraway places, children who have to stand in line to fight for food, children in rags, children with little or no hope.

And we silently thank God they are not our children.

Then, we pick up the newspaper here and there's a picture of a man standing in the rubble of what was a Christmas light display in his yard wrecked by a bunch of self-indulgent high school jerks with apparently nothing better to do.

And we wonder. Why? Why do our children do these things? They aren't starving, they aren't in rags, they don't have to fight for food. Why do they do these things?

The answer is simple.

We let them. We refuse to fall on them like a wall when they get out of line.

We coddle them, buy them cars, have no idea where they are in the middle of a school night and fail to ask questions. We don't convince them stealing is wrong, that destroying someone else's property is unacceptable.

We walk by snot-nosed kids puffing on cigarettes without telling them to put them out. We don't challenge them when they screw up. Why? Because most of us are afraid. The last thing most adults want is to get into an altercation with some young punk. After all, the law always is on their side.

We have a justice system set up to protect them, we have newspapers that will not print their names, we do everything we can to tell them that as long as they're kids, they can do what they damned well want. The punishment will be light. Nobody will know. Mom and dad won't be inconvenienced. And when it's all over, we'll just



erase that nasty old record.

And we dismiss property damage and stealing as a prank. We say, "Oh, kids will be kids," and forget about it. We say this despite the fact that a child already has been killed during one of these "pranks" and a man likely will go to prison for protecting his property. We say this despite the grim possibility another child could be killed.

But what happened early Wednesday should be the last straw. These yahoos dishonored themselves, their families, their school and their classmates. They should now be taught that in the real world, where'll they'll be in a few years if they live long enough, there is a price to pay for this kind of nonsense.

It's time to make an example. Let's start with this bunch. We should be telling them — and their parents — the party's over, that we're really getting sick of kids running wild in this town.

Each child involved in the festivities early Wednesday should be charged to the full extent of the law. Those convicted should be required to return the items they stole, repair any damage done and work off any that cannot be fixed, no matter how long it takes. And they should have to do it this winter to get a taste of the hard, cold work that went into what they destroyed. They should not be allowed to pay cash for any of this, and mom and dad should not be allowed to help.

And then the children — and their parents — should be required to work at a community service job, side by side, for a period of time to get a feeling for how others live and how hard it can be.

They should be required to apologize to their victims — in person and in writing — and apologize to the kids in their school with the sense not to have taken part, the kids they embarrassed with their stupidity.

Then, we need to look at a new set of laws that actually make children — and their parents — understand there actually is a price.

Maybe a law that actually makes parents responsible would go a long way toward getting that done. If a kid gets into trouble, parents ought to get into trouble, too. If a kid is charged with a crime, mom and dad ought to feel the heat. A "failure to supervise a child" statute could do the trick. Something tells me that if mom and dad thought they might have to pay the criminal court freight for their child's actions, junior likely would be home, or somebody would know where he was going, and with whom.

Maybe we ought to think about revoking or suspending the drivers' licenses of youngsters who break the law. It is, after all, supposed to be a privilege. It would be hard for these bozos to take part in many "pranks" afoot.

We also could drop some of the protection many of them think goes with being a kid. The names of children involved in serious crimes should not be a secret. We have a right to know who they are, and their parents, too. And kids probably should be charged automatically as adults for any felony.

We should not let this episode pass as just another "prank." We should use it to straighten out an ever-growing mess, or as a line in the sand.

And maybe someday we won't have to wonder about our kids.

*Paul Jenkins is an editor of The Anchorage Times.*



Jenkins

### New Telephone numbers at The Anchorage Times

As of Monday, telephone numbers at The Anchorage Times will be as follows:

Dennis Fradley	274-3952
Paul Jenkins	274-3954
William J. Tobin	274-3955
FAX	274-3958
Messages	274-3947

(b) An agreement executed by the commissioner under (a) of this section must provide that

(1) the state has the right to detain or confine a prisoner held under authority of law in the correctional facility;

(2) the administrator of the correctional facility agrees to implement an order, concerning a prisoner, issued by a court of the state;

(3) the administrator of the correctional facility shall comply with the law, and regulations adopted by the commissioner, relating to the custody, care, and discipline of a prisoner detained or confined in the correctional facility; and

(4) the commissioner may inspect the correctional facility at any time to determine the conditions under which a prisoner is detained or confined.

(c) The agreement executed by the commissioner under (a) of this section may require the administrator of the correctional facility to comply with requirements that the commissioner considers necessary for the protection of the public or for the quality of care and programs for prisoners required by this chapter and regulations adopted by the commissioner. (§ 6 ch 88 SLA 1986)

## Article 2. Commitments, Programs, and Furloughs.

Section	Section
51. Commitment to commissioner	lough or correctional restitution
61. Commissioner to designate facility	center placement involving employ-
71. Responsibility for prisoners pending	ment
commitment	141. Effect of violation of furlough condi-
81. Transportation of prisoners	tions or failure to return
91. Designation of programs	151. Correctional restitution centers
101. Furloughs	161. Eligibility to serve time in a correc-
111. Prerelease furloughs	tional restitution center
121. Short-duration furloughs	171. Community advisory committees
131. Prerelease or short-duration fur-	181. Confinement to the center

*Sec. 33.30.050. [Repealed, § 12 ch 88 SLA 1986.]*

**Sec. 33.30.051. Commitment to commissioner.** A person convicted of an offense against the state shall be committed to the custody of the commissioner for the term of imprisonment that the court directs. (§ 6 ch 88 SLA 1986)

### NOTES TO DECISIONS

Authority to designate specific facility for incarceration. — See notes under same catchline under AS 33.30.061, Notes to Decisions.

*Sec. 33.30.280. Credit for labor while imprisoned. [Repealed, § 6 ch 53 SLA 1982.]*

**Sec. 33.30.281. Crime against sentenced prisoner.** A person who commits a crime against a sentenced prisoner is punishable as if the prisoner was not sentenced and incarcerated. (§ 6 ch 88 SLA 1986)

*Secs. 33.30.282 — 33.30.290. [Repealed, § 12 ch 88 SLA 1986.]*

**Sec. 33.30.291. Treaties.** If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of prisoners sentenced to serve a term of incarceration to the country where they are citizens or nationals, the commissioner may, on behalf of the state and subject to the terms of the treaty, consent to the transfer or exchange of prisoners and take any other action necessary to initiate the participation of the state in the treaty. (§ 6 ch 88 SLA 1986)

*Secs. 33.30.300 — 33.30.900. [Repealed, § 12 ch 88 SLA 1986.]*

**Sec. 33.30.901. Definitions.** In this chapter, unless the context requires otherwise,

- (1) "center" means a correctional restitution center;
- (2) "commissioner" means the commissioner of the Department of Corrections;
- (3) "community service" means work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public services, lands, forests, parks, roads, highways, facilities, or education; community service may not confer a private benefit on a person except as may be incidental to the public benefit;
- (4) "correctional facility" or "facility" means a prison, jail, camp, farm, half-way house, group home, or other placement designated by the commissioner for the custody, care, and discipline of prisoners; a "state correctional facility" means a correctional facility owned or run by the state;
- (5) "court" means the supreme court, the court of appeals, the superior court, the district or magistrate court, or a justice or judge of a court;
- (6) "crime against a person" means a crime as set out in AS 11.41, except custodial interference under AS 11.41.320 and 11.41.330; or a crime against a person in this or another jurisdiction having elements substantially identical to those of a crime as set out in AS 11.41, except custodial interference under AS 11.41.320 and 11.41.330;
- (7) "department" means the Department of Corrections;

(8) "furlough" means an authorized leave of absence from actual confinement for a designated purpose and period of time;

(9) "health care provider" means

(A) a physician's assistant or nurse practitioner licensed to practice in the state and working under the direct supervision of a licensed physician or psychiatrist; or

(B) a mental health professional as defined in AS 47.30.915;

(10) "municipality" means a municipality authorized by law to establish a correctional facility;

(11) "prisoner" means a person, other than a juvenile, held under authority of state law in official detention as defined in AS 11.81.900(b);

(12) "temporary commitment" means detention of a person for any period under authority of state law, but does not include confinement upon conviction and judgment of a court of this state;

(13) "victim" has the meaning given in AS 12.55.185. (§ 6 ch 88 SLA 1986)

## Chapter 32. Correctional Industries.

### Section

- 10. Purpose of chapter
- 15. Powers and duties of the commissioner of corrections
- 17. "Free venture" correctional industries
- 20. Correctional industries fund
- 30. Marketing of correctional industries products
- 40. Rights of correctional industries workers

### Section

- 50. Wages of correctional industries workers; forfeiture
- 60. Limitation on attachment, etc., of wages
- 70. Correctional Industries Commission
- 80. Powers and duties of the Correctional Industries Commission
- 90. Cooperation with state agencies

---

Chapter repealed effective July 1, 1987. — Section 7, ch. 53, SLA 1982, repeals this chapter effective July 1, 1987.

---

**Sec. 33.32.010. Purpose of chapter [Repealed effective July 1, 1987].** It is the purpose of this chapter to:

(1) develop and operate agricultural, industrial, and service enterprises employing prisoners under the jurisdiction of the commissioner of corrections;

(2) provide realistic work experience for prisoners under conditions as much like those that prevail in private industry as possible, consistent with proper penal administration, and to direct their efforts toward financial responsibility, acquiring or improving effective work habits and occupational skills, and increasing the probability of opportunities for employment after release; and

**Sec. 34.50.010. Action for injury to the inheritance.** A person seized of an estate in remainder or reversion may maintain a civil action for an injury done to the inheritance, notwithstanding an intervening estate for life or years. (§ 22-1-5 ACLA 1949)

**Collateral references.** — 51 Am. Jur. 31 C.J.S., Estates, §§ 85, 107, 111.  
2d, Life Tenants and Remaindermen,  
§§ 2, 3, 22, 98.

**Sec. 34.50.020. Liability for destruction of property by minors.** (a) A person, municipal corporation, association, village, school district, or religious or charitable organization, incorporated or unincorporated, may recover damages in a civil action in an amount not to exceed \$2,000 and court costs, from either parent or both parents or the legal guardian or person having the legal custody of an unemancipated minor under the age of 18 years, who maliciously or wilfully destroys real or personal property belonging to the person, municipal corporation, association, village, school district, or religious or charitable organization.

(b) A state agency or its agents, including a person working in or responsible for the operation of a foster, receiving, or detention home, or children's institution, is not liable for the acts of unemancipated minors in its charge or custody. (§ 1 ch 98 SLA 1957; am § 1 ch 107 SLA 1967)

**Collateral references.** — 59 Am. Jur. Parents' liability for injury or damage  
2d, Parent and Child, § 123. intentionally inflicted by minor child. 54  
67A C.J.S., Parent and Child, §§ 123, ALR3d 974  
163.

## Chapter 55. Uniform Land Sales Practices Act.

### Section

- 04. Administration
- 06. Fraudulent and prohibited practices
- 08. Prohibitions on dispositions of interests in subdivisions
- 10. Application for registration
- 12. Public offering statement
- 14. Inquiry and examination
- 16. Notice of filing and registration
- 18. Annual report
- 20. General powers and duties
- 22. Investigations and proceedings

### Section

- 24. Cease and desist orders
- 26. Revocation
- 28. Penalties
- 30. Civil remedy
- 32. Jurisdiction
- 34. Interstate rendition
- 36. Service of process
- 38. Uniformity of interpretation
- 42. Exemptions
- 44. Definitions
- 46. Short title

(8) adopt regulations that establish procedures for an individual to apply to have a dividend warrant reissued if it is returned to the department as undeliverable or it is not paid within two years of the date of its issuance; however, the department may not establish a time limit within which an application to have a warrant reissued must be filed. (§ 1 ch 102 SLA 1982; am § 2 ch 55 SLA 1983; am § 3 ch 43 SLA 1984; am § 3 ch 54 SLA 1988; am § 5 ch 68 SLA 1990; am § 14 ch 4 SLA 1992)

**Effect of amendments.** — The 1992 amendment, effective January 1, 1993, rewrote paragraph (2) and added paragraph (8).

**Effective date of amendment.** — The

amendment to (2) of this section, and the addition of (8) of this section, made by § 14, ch. 4, SLA 1992, are effective January 1, 1993. For the statute as it read before that date, see the main pamphlet.

**Sec. 43.23.065. Exemption of and levy on permanent fund dividends.** (a) Except as provided in (b) of this section, 45 percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. No other exemption applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend that has not been delivered to the debtor may be served on the commissioner by certified mail, return receipt requested. Upon receipt of a writ by certified mail, return receipt requested, the commissioner shall deliver that portion of the dividend executed upon to the court along with the case name and number.

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support enforcement agency under AS 25.27.140 — 25.27.220;

(2) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100;

(3) claims on defaulted scholarship loans under AS 43.23.067;

(4) court ordered fines;

(5) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired.

(c) Claims listed in (b) of this section have priority in the order listed over other claims on a permanent fund dividend whether payments are sought through legal actions for the collection of debts or through assignments from the debtor.

(d) An assignment of or levy, execution, garnishment, attachment, or other remedy for the collection of debt applied to a dividend for a year may not be accepted by the department before April 1 of that

same year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a permanent fund dividend. The department shall include the case number with a dividend or portion of a dividend transmitted to the court in response to a writ of execution or other court order. At the time payment is made to the court, the department shall send to the individual at the address provided in the individual's dividend application and to the court that issued the writ or order a notice that contains

- (1) notification that all or part of the individual's dividend has been seized under a writ of execution or court order;
- (2) the name and address of the court that issued the writ or order;
- (3) the case number for which the writ or order was issued;
- (4) the amount seized under the writ or order; and
- (5) notification that the individual has 30 days from the date the notice is mailed in which to file with the court an objection to the seizure if a mistake has been made. (§ 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 1 ch 57 SLA 1985; am § 67 ch 138 SLA 1986; am § 3 ch 26 SLA 1989; am § 3 ch 193 SLA 1990; am §§ 3, 4 ch 52 SLA 1992)

**Effect of amendments.** — The 1992 amendment, effective June 11, 1992 added the last three sentences in subsection (a); in subsection (b), added paragraphs (3) and (4), redesignated former paragraph (3) as paragraph (5), and made

stylistic changes; added "whether payments are sought through legal actions for the collection of debts or through assignments from the debtor" to subsection (c); and added subsection (d).

**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:

## Chapter 10. Delinquent Minors and Children in Need of Aid.

### Article

1. Children's Proceedings (§§ 47.10.010 — 47.10.142)
2. Juvenile Institutions (§§ 47.10.160 — 47.10.220)
3. Care of Children (§§ 47.10.230 — 47.10.260)
4. Programs for Runaway Minors (§§ 47.10.300 — 47.10.390)
6. Citizens' Review Panel for Permanency Planning (§§ 47.10.400 — 47.10.490)
6. General Provisions (§§ 47.10.970, 47.10.990)

### NOTES TO DECISIONS

Cited in *Flores v. Flores*, 598 P.2d 893  
(Alaska 1979).

### Article 1. Children's Proceedings.

#### Section

10. Jurisdiction
20. Investigation and petition
30. Summons and custody of minor
40. Release of minor
50. Appointment of guardian ad litem or attorney
60. Waiver of jurisdiction
70. Hearings
72. Access to hearing by victim
75. Young adult advisory panels
80. Judgments and orders
81. Predisposition hearing reports
82. Best interests of child and other considerations
83. Review of orders, requests for extensions
84. Legal custody, guardianship, and re-

#### Section

85. Medical treatment by religious means
90. Records
95. Arrest of a minor
97. Fingerprinting of minors
100. Retention of jurisdiction over minor
110. Appointment of guardian or custodian
120. Support of minor
130. Detention
140. Temporary detention and detention hearing
141. Runaway and missing minors
142. Emergency custody and temporary placement hearing

Cross references. — For court rules governing children's proceedings, see Alaska Rules of Court, Child in Need of

Aid Rules (CINA Rules) and Delinquency Rules.

**Sec. 47.10.010. Jurisdiction.** (a) Proceedings relating to a minor under 18 years of age residing or found in the state are governed by this chapter, except as otherwise provided in this chapter, when the court finds the minor

(1) to be a delinquent minor as a result of violating a criminal law of the state or a municipality of the state; or

(2) to be a child in need of aid as a result of

(A) the child being habitually absent from home or refusing to accept available care, or having no parent, guardian, custodian, or rela-

tive caring or willing to provide care, including physical abandonment by

(i) both parents,  
(ii) the surviving parent, or  
(iii) one parent if the other parent's rights and responsibilities have been terminated under AS 25.23.180(c) or AS 47.10.080 or voluntarily relinquished;

(B) the child being in need of medical treatment to cure, alleviate, or prevent substantial physical harm, or in need of treatment for mental harm as evidenced by failure to thrive, severe anxiety, depression, withdrawal, or untoward aggressive behavior or hostility toward others, and the child's parent, guardian, or custodian has knowingly failed to provide the treatment;

(C) the child having suffered substantial physical harm or if there is an imminent and substantial risk that the child will suffer such harm as a result of the actions done by or conditions created by the child's parent, guardian, or custodian or the failure of the parent, guardian, or custodian adequately to supervise the child;

(D) the child having been, or being in imminent and substantial danger of being, sexually abused either by the child's parent, guardian, or custodian, or as a result of conditions created by the child's parent, guardian, or custodian, or by the failure of the parent, guardian, or custodian adequately to supervise the child;

(E) the child committing delinquent acts as a result of pressure, guidance, or approval from the child's parents, guardian, or custodian;

(F) the child having suffered substantial physical abuse or neglect as a result of conditions created by the child's parent, guardian, or custodian.

(b) When a minor is accused of violating a traffic statute or regulation, a traffic ordinance or regulation of an incorporated municipality, AS 11.76.105 relating to the possession of tobacco by a minor, a fish and game statute or regulation under AS 16, or a parks and recreational facilities statute or regulation under AS 41.21, excepting a statute the violation of which is a felony, the procedure prescribed in AS 47.10.020 — 47.10.090 may not be followed, except that a parent, guardian, or legal custodian shall be present at all proceedings. The minor accused of an offense specified in this subsection shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult.

(c) In a controversy concerning custody of a minor, the court may appoint a guardian of the person and property of a minor and may order support from either or both parents. Custody of a minor may be given to the department, and payment of support money to the department may be ordered.

(d) The provisions of AS 47.10.020 — 47.10.085 do not apply to driver's license proceedings under AS 28.15.185. The court shall im-

§ 47.10.010 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.010

pose a driver's license revocation under AS 28.15.185 in the same manner as adult driver's license revocations, except that a parent or legal guardian shall be present at all proceedings. (§ 4 art I ch 145 SLA 1957; am § 1 ch 76 SLA 1961; am §§ 1, 2 ch 110 SLA 1967; am § 1 ch 64 SLA 1969; am § 6 ch 104 SLA 1971; am §§ 7, 8 ch 63 SLA 1977; am § 1 ch 104 SLA 1982; am § 5 ch 39 SLA 1985; am § 17 ch 50 SLA 1987; am § 6 ch 125 SLA 1988; am § 3 ch 130 SLA 1988; am § 6 ch 125 SLA 1990)

**Effect of amendments.** — The 1987 amendment inserted "AS 25.23.180(c) or" in (a)(2)(A)(iii) and made punctuation changes throughout the section.

The first 1988 amendment, in subsection (b), substituted "an offense specified in this subsection" for "a traffic offense, a fish and game statute or regulation violation under AS 16 or parks and recreational facilities violation under AS 41.21"

in the second sentence and, in the first sentence, inserted "AS 11.76.106 relating to the purchase of tobacco by a minor" and made a series of minor punctuation changes.

The second 1988 amendment, effective September 1, 1988, added subsection (d).

The 1990 amendment substituted "possession" for "purchase" in subsection (b).

#### NOTES TO DECISIONS

**Constitutionality.** — The statutory scheme of this chapter is not so vague as to deprive parents of their procedural due process rights. *R.C. v. State, Dep't of Health & Social Servs.*, 760 P.2d 501 (Alaska 1988).

**Applicability of 1977 amendment.** — All cases pending at the time of the enactment of the new children's statute by the 1977 acts are entitled to hearing under the new, rather than the old, standards. *In re J.M.*, 573 P.2d 1376 (Alaska 1978).

In order to provide guidance to the superior court for the administration of juvenile justice, children adjudged dependent under the standards of former subsection (a)(5) of this section prior to its repeal in 1977 are entitled, on request, to a dispositional hearing under the standards of the newly-enacted subsection (a)(2)(C) of this section. *In re J.M.*, 573 P.2d 1376 (Alaska 1978).

Children adjudged dependent under former (a)(5) of this section are entitled on request to an adjudicative hearing under the standards of subsection (a)(2)(C). *In re C.L.T.*, 597 P.2d 518 (Alaska 1979).

Rehabilitation, rather than punishment, is the express purpose of juvenile jurisdiction. Mere confinement without treatment does not contribute to the goal of rehabilitation; such confinement constitutes cruel and unusual punishment. *Rust v. State*, 582 P.2d 134 (Alaska 1978).

Principal precept behind children's

court concept is that a person under 18 years of age does not have mature judgment and may not fully realize the consequences of his acts, and that therefore he should not generally have to bear the stigma of a criminal conviction for the rest of his life. *In re P.H.*, 504 P.2d 837 (Alaska 1972).

A child "in need of aid" appears to be the functional equivalent of a "dependent" child under this section as it existed prior to its 1977 amendment. *In re C.L.T.*, 597 P.2d 518 (Alaska 1979).

The phrase "under 18 years of age" refers to the age of the accused person at the time of the alleged offense. *In re P.H.*, 504 P.2d 837 (Alaska 1972).

**Jurisdiction dependent upon age of offender at time of act.** — Juvenile jurisdiction of the superior court in delinquency proceedings is dependent upon the age of the offender at the time of the delinquent acts. *Henson v. State*, 576 P.2d 1352 (Alaska 1978).

**Child is exempt from criminal prosecution until children's court waives jurisdiction.** — From the moment a child commits an offense he is exempt from criminal prosecution until the children's court properly waives its jurisdiction. *In re P.H.*, 504 P.2d 837 (Alaska 1972).

**Deferring action against child until 18th birthday would frustrate purpose of juvenile courts.** — To allow officials charged with the execution of the law to prosecute a child offender as a criminal

Collateral references. — 39 Am. Jur. 2d, Guardian and Ward, § 17; 42 Am. Jur. 2d, Infants, § 173 et seq.

39 C.J.S., Guardian and Ward, §§ 20-29; 43 C.J.S., Infants, §§ 52, 54, 201, 222 et seq.

Recognition of foreign guardian as next

friend or guardian ad litem. 94 ALR2d 211.

Who is minor's next of kin for guardianship purposes. 63 ALR3d 813.

Validity and efficacy of minor's waiver of right to counsel — modern cases. 25 ALR4th 1072.

**Sec. 47.10.060. Waiver of jurisdiction.** (a) If the court finds at a hearing on a petition that there is probable cause for believing that a minor is delinquent and finds that the minor is not amenable to treatment under this chapter, it shall order the case closed. After a case is closed under this subsection, the minor may be prosecuted as an adult.

(b), (c) [Repealed, § 8 ch 110 SLA 1967.]

(d) A minor is unamenable to treatment under this chapter if the minor probably cannot be rehabilitated by treatment under this chapter before reaching 20 years of age. In determining whether a minor is unamenable to treatment, the court may consider the seriousness of the offense the minor is alleged to have committed, the minor's history of delinquency, the probable cause of the minor's delinquent behavior, and the facilities available to the division of youth and adult authority for treating the minor.

(e) A person who has been tried as an adult under this section, or the department on the person's behalf, may petition the superior court to seal the records of all criminal proceedings, except traffic offenses, initiated against the person, and all punishments assessed against the person, while the person was a minor. A petition under this subsection may not be filed until five years after the completion of the sentence imposed for the offense for which the person was tried as an adult. If the superior court finds that the punishment assessed against the person has had its intended rehabilitative effect, the superior court shall order the record of proceedings and the record of punishments sealed. Sealing the records restores civil rights removed because of a conviction. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court. (§ 9 art I ch 145 SLA 1957; am § 1 ch 118 SLA 1962; am §§ 3, 8 ch 110 SLA 1967; am § 6 ch 104 SLA 1971; am § 13 ch 63 SLA 1977)

**Cross references.** — For court rule covering waiver proceedings, see Delinquency Rule 20.

*Sec. 47.10.072. Access to hearing by victim. [Repealed, § 23 ch 57 SLA 1991.]*

**Sec. 47.10.080. Judgments and orders.** (a) The court, at the conclusion of the hearing, or thereafter as the circumstances of the case may require, shall find and enter a judgment that the minor is or is not delinquent or a child in need of aid.

(b) If the court finds that the minor is delinquent, it shall

(1) order the minor committed to the department for a period of time not to exceed two years or in any event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing (A) two-year extensions of commitment that do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and (B) an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it; the department shall place the minor in the juvenile facility that the department considers appropriate and that may include a juvenile correctional school, detention home, or detention facility; the minor may be released from placement or detention and placed on probation on order of the court and may also be released by the department, in its discretion, under AS 47.10.200;

(2) order the minor placed on probation, to be supervised by the department, and released to the minor's parents, guardian, or a suitable person; if the court orders the minor placed on probation, it may specify the terms and conditions of probation; the probation may be for a period of time, not to exceed two years and in no event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of supervision that do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it;

(3) order the minor committed to the department and placed on probation, to be supervised by the department, and released to the minor's parents, guardian, other suitable person, or suitable nondetention setting such as a family home, group care facility, or child care facility, whichever the department considers appropriate to implement the treatment plan of the predisposition report; if the court orders the minor placed on probation, it may specify the terms and conditions of probation; the department may transfer the minor, in the minor's best interests, from one of the probationary placement settings listed in this paragraph to another, and the minor, the minor's parents or guardian, and the minor's attorney are entitled to reason-

§ 47.10.080 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.080

able notice of the transfer; the probation may be for a period of time, not to exceed two years and in no event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of commitment that do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it;

(4) order the minor to make suitable restitution in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;

(5) order the minor committed to the department for placement in an adventure based education program established under AS 47.21.020 with conditions the court considers appropriate concerning release upon satisfactory completion of the program or commitment under (1) of this subsection if the program is not satisfactorily completed; or

(6) in addition to an order under (1) — (5) of this subsection, if the delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or 11.71.040(a)(4), order the minor to perform 50 hours of community service; for purposes of this paragraph, "community service" includes work

(A) on a project identified in AS 33.30.901; or

(B) that, on the recommendation of the city council or traditional village council, would benefit persons within the city or village who are elderly or disabled.

(c) If the court finds that the minor is a child in need of aid, it shall

(1) order the minor committed to the department for placement in an appropriate setting for a period of time not to exceed two years or in any event past the date the minor becomes 19 years of age, except that the department may petition for and the court may grant in a hearing (A) two-year extensions of commitment that do not extend beyond the minor's 19th birthday if the extension is in the best interests of the minor and the public; and (B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it; the department may transfer the minor, in the minor's best interests, from one placement setting to another, and the minor, the minor's parents or guardian, and the minor's attorney are entitled to reasonable notice of the transfer;

(2) order the minor released to the minor's parents, guardian, or some other suitable person, and, in appropriate cases, order the parents, guardian, or other person to provide medical or other care and treatment; if the court releases the minor, it shall direct the department to supervise the care and treatment given to the minor, but the

court may dispense with the department's supervision if the court finds that the adult to whom the minor is released will adequately care for the minor without supervision; the department's supervision may not exceed two years or in any event extend past the date the minor reaches age 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of supervision that do not extend beyond the minor's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it; or

(3) by order, upon a showing in the adjudication by clear and convincing evidence that there is a child in need of aid under AS 47.10.010(a)(2) as a result of parental conduct and upon a showing in the disposition by clear and convincing evidence that the parental conduct is likely to continue to exist if there is no termination of parental rights, terminate parental rights and responsibilities of one or both parents and commit the child to the department or to a legally appointed guardian of the person of the child, and the department or guardian shall report annually to the court on efforts being made to find a permanent placement for the child.

(d) An order issued under (c)(3) of this section authorizes the commissioner of health and social services or a designee or the guardian of the person of the child to consent to the adoption of the child.

(e) If the court finds that the minor is not delinquent or a child in need of aid, it shall immediately order the minor released from the department's custody and returned to the minor's parents, guardian, or custodian, and dismiss the case.

(f) A minor found to be delinquent or a child in need of aid is a ward of the state while committed to the department or the department has the power to supervise the minor's actions. The court shall review an order made under (b) or (c)(1) or (2) of this section annually, and may review the order more frequently to determine if continued placement, probation, or supervision, as it is being provided, is in the best interest of the minor and the public. If annual review under this subsection would arise within 90 days of the hearing required under (d) of this section, the court may postpone review under this subsection until the time set for the hearing. The department, the minor, the minor's parents, guardian, or custodian are entitled, when good cause is shown, to a review on application. If the application is granted, the court shall afford these parties and their counsel reasonable notice in advance of the review and hold a hearing where these parties and their counsel shall be afforded an opportunity to be heard. The minor shall be afforded the opportunity to be present at the review.

(g) No adjudication under this chapter upon the status of a child may operate to impose any of the civil disabilities ordinarily imposed by conviction upon a criminal charge, nor may a minor afterward be considered a criminal by the adjudication, nor may the adjudication be afterward deemed a conviction, nor may a minor be charged with or convicted of a crime in a court, except as provided in this chapter. The commitment and placement of a child and evidence given in the court are not admissible as evidence against the minor in a subsequent case or proceedings in any other court, nor does the commitment and placement or evidence operate to disqualify a minor in a future civil service examination or appointment in the state.

(h) The department shall pay all court costs incurred in all proceedings in connection with the adjudication of delinquency under this chapter, including hearings that result in the release of the minor.

(i) A minor, the minor's parents or guardian acting on the minor's behalf, or the department may appeal a judgment or order, or the stay, modification, setting aside, revocation, or enlargement of a judgment or order issued by the court under this chapter.

(j) *[Repealed, § 29 ch 63 SLA 1977.]*

(k) In making its order under (c) of this section, the court shall consider the fact, if it is a fact, that the minor was being provided treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination.

(l) Within 18 months after the date a child is initially taken into custody by the department under AS 47.10.142(c) or committed to the custody of the department under (b)(3), (c)(1), or (c)(3) of this section, or 47.10.230(c), the court shall hold a hearing to review the placement and services provided and to determine the future status of the minor. The court shall make appropriate written findings, including findings related to the following;

(1) whether the child should be returned to the parent;

(2) whether the child should remain in out-of-home care for a specified period;

(3) whether the child should remain in out-of-home care on a permanent or long-term basis because of special needs or circumstances;

(4) whether the child should be placed for adoption or legal guardianship.

(m) Within 60 days after the date a child is removed from the child's home by the department, the department shall notify the appropriate local citizen out-of-home care review panel established under AS 47.10.420.

(n) Within 60 days after a court orders a child committed to the department under (c) of this section and at a review under (l) or (i) of this section, the department shall inform the parties about the local citizen out-of-home care review panel established under AS 47.10.420.

Cross references. — For a related provision, see AS 47.17.020(d).

#### NOTES TO DECISIONS

Cited in *M.O.W. v. State*, 645 P.2d 1229 (Alaska Ct. App. 1982).

Sec. 47.10.090. Records. (a) The court shall make and keep records of all cases brought before it. The court's official records may be inspected only with the court's permission and only by persons having a legitimate interest in them. All information and social records pertaining to a minor and prepared by an employee of the court or by a federal, state or city agency in the discharge of the employee's or agency's official duty, including driver's license action under AS 28.15.185, are privileged and may not be disclosed directly or indirectly to anyone without the court's permission. However, a state or city law-enforcement agency shall disclose information regarding a case which is needed by the person or agency charged with making a preliminary investigation for the information of the court. The court shall forward a record of adjudication of a violation of an offense listed in AS 28.15.185(a) to the Department of Public Safety, if the court imposes a license revocation under AS 28.15.185. Within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court relinquishes jurisdiction over a minor, the court shall order sealed all the court's official records, information and social records pertaining to that minor, as well as records of all driver's license proceedings under AS 28.15.185, criminal proceedings against the minor and punishments assessed against the minor except for traffic offenses. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court.

(b) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent child or a child in need of aid unless authorized by order of the court, except that the name of a minor who is found for the second time to have violated a law, which if committed by an adult would be a felony, shall be made public unless the court, for good cause shown, in certain individual cases, enters an order prohibiting the disclosure.

(c) A person who violates a provision of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500 or by imprisonment for not more than one year, or by both. (§ 10(3)(4) art I ch 145 SLA 1957; am § 1 ch 124 SLA 1972; am § 1 ch

§ 47.10.095 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.097

90 SLA 1975; am § 20 ch 63 SLA 1977; am § 4 ch 130 SLA 1988; am § 56 ch 50 SLA 1989)

**Effect of amendments.** — The 1988 amendment, effective September 1, 1988, in subsection (a), inserted "including traffic offenses and driver's license action under AS 28.15.185" in the third sentence and "driver's license proceedings under

AS 28.16.185" in the next-to-last sentence, and inserted the fifth sentence.

The 1989 amendment, effective May 27, 1989, deleted "traffic offenses and" following "including" in the third sentence in subsection (a).

NOTES TO DECISIONS

**Purpose for enacting subsection (a).** — Reading this section together with other sections of the laws relating to children's proceedings leads one to believe that subsection (a) was enacted principally for the purpose of protecting the child against the possible adverse effects an unauthorized revelation of his social record would have. In re P.N., 533 P.2d 13 (Alaska 1975).

There is no indication that subsection (a) was intended to authorize the granting of testimonial use immunity to parents. In re P.N., 533 P.2d 13 (Alaska 1975).

The supreme court could not say with certainty that this section would be construed to forbid the use, in a subsequent criminal action against a parent, of testimony that the parent gave at a children's proceeding. In re P.N., 533 P.2d 13 (Alaska 1975).

**Confidentiality policy.** — The policy

of confidentiality in Child in Need of Aid proceedings is not absolute. The court has discretion to disclose records in CINA proceedings under subsection (a). Clifton v. State, 758 P.2d 1279 (Alaska Ct. App. 1988).

Superior court's records release order did not violate state or federal rights of privacy, where the order was intended to facilitate an expeditious and comprehensively monitored reunion of the child and her father, and the order's scope was limited to agencies directly involved in providing resources to the parties in the case. In re A.B., 791 P.2d 615 (Alaska 1990).

Quoted in Sledge v. State, 763 P.2d 1364 (Alaska Ct. App. 1988).

Stated in RLR v. State, 487 P.2d 27 (Alaska 1971).

Cited in M.O.W. v. State, 645 P.2d 1229 (Alaska Ct. App. 1982); State v. R.H., 683 P.2d 269 (Alaska Ct. App. 1984).

**Sec. 47.10.095. Arrest of a minor.** The arrest of a minor other than for a traffic offense is not considered an arrest for any purpose except for the purpose of the disposition of a proceeding arising out of that arrest. (§ 2 ch 124 SLA 1972)

**Sec. 47.10.097. Fingerprinting of minors.** (a) Except as provided in (b) of this section, a minor in the custody of the department or of a law enforcement agency may not be fingerprinted for reference to or entry into the Alaska automated fingerprint system without a court order upon good cause shown.

(b) A law enforcement officer may fingerprint a minor who is 16 years of age or older for reference to or entry into the Alaska automated fingerprint system without a court order when the minor is convicted of, or adjudicated a delinquent for, an offense that is a felony.

(c) Fingerprint records under this section are not subject to AS 47.10.090. (§ 3 ch 121 SLA 1988)

(§ 3 art II ch 145 SLA 1957; am § 1 ch 152 SLA 1959; am § 6 ch 104 SLA 1971; am § 25 ch 63 SLA 1977)

Collateral references. — 60 Am Jur.  
2d, Penal and Correctional Institutions,  
§ 1 et seq.

**Sec. 47.10.160. Duties of department.** (a) The department shall  
(1) accept all minors committed to the custody of the department and all minors who are involved in a written agreement under AS 47.10.230(c), and provide for the welfare, control, care, custody, and placement of these minors in accordance with this chapter;

(2) require and collect statistics on juvenile offenses and offenders in the state;

(3) conduct studies and prepare findings and recommendations on the need, number, type, construction, maintenance, and operating costs of juvenile homes, facilities, and the other institutions, and adopt and submit a plan for construction of the homes, facilities, and institutions when needed, together with a plan for financing the construction programs;

(4) examine, where possible, all facilities, institutions, and places of juvenile detention in the state and inquire into their methods and the management of juveniles in them.

(b) For the purpose of collecting statistics, the department shall establish and require state and local agencies that operate a jail or other detention facility to use a standardized form to keep a record and report the admission of a minor. The record shall be limited to the name of the minor admitted, the minor's date of birth, the specific offense for which the minor was admitted, the date and time admitted, the date and time released, the sex of the minor, the ethnic origin of the minor, and other information required by federal law. Except for the notation of the date and time of the minor's release, the record shall be prepared at the time of the minor's admission. Unless otherwise provided by law, information and records obtained under this subsection are confidential and are not public records. They may be disclosed only for the purpose of compiling statistics and in a manner that does not reveal the identity of the minor. (§ 5 art II ch 145 SLA 1957; am § 4 ch 110 SLA 1967; am § 4 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 169 SLA 1990)

Effect of amendments. — The 1990 amendment added subsection (b).

§ 47.10.170 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.190

**Sec. 47.10.170. Power of cities to maintain and operate home or facility.** (a) A city having a population of 1700 or more, according to the latest decennial census, or found by the department to have a present population of 1700 or more may maintain and operate a juvenile detention home or facility.

(b) The city may receive grants-in-aid from the state for costs of operation of the homes or facilities. (§ 5 art II ch 145 SLA 1957)

**Sec. 47.10.180. Operation of homes and facilities.** (a) The department shall adopt standards and regulations for the operation of juvenile detention homes and juvenile detention facilities in the state.

(b) The department may enter into contracts with cities and other governmental agencies for the detention of juveniles before and after commitment by juvenile authorities. A contract may not be made for longer than one year. (§ 8 art II ch 145 SLA 1957; am § 3 ch 97 SLA 1960; am § 6 ch 104 SLA 1971)

**Sec. 47.10.190. Conditions governing detention.** When the court commits a minor to the custody of the department, the department shall arrange to place the juvenile in a detention home, facility or another suitable place that the department designates for that purpose. A juvenile detained in a jail or similar institution at the request of the department shall be held in custody in a room or other place apart and separate from adults. (§ 9 art II ch 145 SLA 1957)

NOTES TO DECISIONS

This section prescribes conditions of confinement after the court has lawfully determined that a child should be confined in an institution. In re A Minor Child, 490 P.2d 658 (Alaska 1971).

"Juvenile" used interchangeably with "minor". — The term "juvenile" is not defined, but throughout this section is used interchangeably with "minor." Davenport v. McGinnis, 522 P.2d 1140 (Alaska 1974).

The apparent intent of the legislature was the two terms "minor" and "juvenile" and to be construed identically. Davenport v. McGinnis, 522 P.2d 1140 (Alaska 1974).

Thus, instruction that "juvenile" defined identically to minor is correct. — Since, for the purposes of this section, a minor is a person under 18 years of age, an instruction that "juvenile" is identically defined is correct. Davenport v. McGinnis, 522 P.2d 1140 (Alaska 1974).

Department need not incarcerate over-18-year olds apart from adults. — The department is not limited in its options pertaining to the selection of a suitable facility for those over 18 years of age by the requirement of incarceration apart from adult offenders. Davenport v. McGinnis, 522 P.2d 1140 (Alaska 1974).

Problems when juvenile reaches 18 years before incarceration. — Difficult problems are presented when one who has committed an offense while under 18 years of age is ordered incarcerated at a later age. Great care must be exercised by the Department of Health and Social Services to provide for custody in an appropriate institution geared to the dual constitutional dictates of reformation of the juvenile and protection of the public. Davenport v. McGinnis, 522 P.2d 1140 (Alaska 1974).

Quoted in B.A.M. v. State, 528 P.2d 437 (Alaska 1974).

**Sec. 47.10.230. Powers and duties of department over care of child.** (a) Subject to (e) and (f) of this section, the department shall arrange for the care of every child committed to its custody by placing the child in a foster home or in the care of an agency or institution providing care for children inside or outside the state. The department may place a child in a suitable family home, with or without compensation, and may place a child released to it, in writing verified by the parent, or guardian or other person having legal custody, for adoptive purposes, in a home for adoption in accordance with existing law.

(b) The department may pay the costs of maintenance that are necessary to assure adequate care of the child, and may accept funds from the federal government that are granted to assist in carrying out the purposes of this chapter, or that are paid under contract entered into with a federal department or agency. A child under the care of the department may not be placed in a family home or institution that does not maintain adequate standards of care.

(c) The department may receive, care for, and make appropriate placement of minors accepted for care for a period of up to six months on the basis of an individual voluntary written agreement between the minor's parent, legal guardian, or other person having legal custody and the department. The agreement must include provisions for payment of fees under AS 44.29.022 to the department for the minor's care and treatment. The agreement entered into may not prohibit a minor's parent, legal guardian, or other person who had legal custody from regaining care of the minor at any time.

(d) In addition to money paid for the maintenance of foster children under (b) of this section, the department

(1) shall pay the costs of caring for physically or mentally handicapped foster children, including the additional costs of medical care, habilitative and rehabilitative treatment, services and equipment, special clothing, and the indirect costs of medical care, including child care and transportation expenses;

(2) may pay for respite care; in this paragraph "respite care" means child care for the purpose of providing

(A) temporary relief from the stresses of caring for a foster child who has a physical or mental disability or a physical or mental impairment; in this subparagraph

(i) "physical or mental disability" has the meaning given in AS 18.80.300(12)(A), (B), and (D); and

(ii) "physical or mental impairment" has the meaning given in AS 18.80.300; and

(B) protection for the child when the foster parent is

(i) away from the home because of an emergency and other care is not available for the child; or

(ii) on vacation and the child, because of age or infirmity, cannot be placed in any other type of temporary care facility; and

(3) may pay a subsidized guardianship payment under AS 25.23.210 when a foster child's foster parents or other persons approved by the department become court-appointed legal guardians of the child.

(e) A child may not be placed in a foster home or in the care of an agency or institution providing care for children if a blood relative exists who requests custody of the child. However, the department may retain custody of the child and provide for its placement in the same manner as for other children if it makes a determination, supported by clear and convincing evidence, that the custody of the child by the blood relative will result in physical or emotional damage. In making that determination, poverty, including inadequate or crowded housing, on the part of the blood relative, is not considered prima facie evidence that physical or emotional damage to the child will occur. This determination may be appealed to the superior court to hear the matter de novo.

(f) If a blood relative of the child specified under (e) of this section exists and agrees that the child should be placed elsewhere, before placement elsewhere the department shall fully communicate the nature of the placement proceedings to the relative. Communication under this subsection shall be made in the relative's native language, if necessary. Nothing in this subsection or in (e) of this section applies to child placement for adoptive purposes.

(g) The department may enter into agreements with Alaska Native villages or Native organizations under 25 U.S.C. 1919 (Indian Child Welfare Act of 1978) respecting the care and custody of Native children and jurisdiction of Native child custody proceedings. (§ 1 art III ch 145 SLA 1957; am § 5 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 76 SLA 1976; am §§ 36, 37 ch 126 SLA 1977; am § 132 ch 6 SLA 1984; am § 1 ch 127 SLA 1986; am § 90 ch 138 SLA 1986; am § 1 ch 48 SLA 1988; am § 6 ch 204 SLA 1990)

**Cross references.** — For legislative intent in enacting (e) and (f) of this section, see § 35, ch. 126, SLA 1977 in the Temporary and Special Acts. For duties of custody review panels in connection with custody decisions made under (c) of this section, see AS 47.10.440.

**Effect of amendments.** — The first 1986 amendment added subsection (g).

The second 1986 amendment in subsection (c), substituted "must include provisions for payment of fees under AS 44.29.022" for "may include provisions for payment, in whole or in part" in the second sentence and substituted "may not prohibit" for "shall not operate to prohibit" in the third sentence.

The 1988 amendment, in subsection (d),

divided the formerly undivided language into an introductory paragraph and paragraphs (1) and (2). The amendment also substituted "and transportation expenses; and" for "transportation expenses, and" in paragraph (d)(1); and, in paragraph (d)(2), divided the formerly undivided language into an introductory paragraph and subparagraph (B), rewrote the introductory paragraph, inserted item (A), divided the formerly undivided language in subparagraph (B) into an introductory paragraph and items (i) and (ii), deleted "not to exceed 12 hours in any 30-day period; it also means child care for a period not to exceed seven days in a year for the purpose of providing emergency" at the beginning of the introductory paragraph of subpara-

§ 47.10.270 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.990

*Sec. 47.10.270. [Renumbered as AS 47.10.970.]*

*Sec. 47.10.290. [Renumbered as AS 47.10.990.]*

**Article 5. Citizens' Review Panel for Permanency Planning.**

**Section**

**410. Duties of the state panel**

**Sec. 47.10.410. Duties of the state panel.** The state panel shall

(1) by regulation adopt policies and procedures to carry out its duties and to govern the performance of the duties of the local panels established under AS 47.10.420;

(2) ensure that local panel members receive the minimum level of training necessary to effectively carry out their duties;

(3) coordinate and review the activities of the local panels and make recommendations to the governor on appointments to the local panels;

(4) report annually to the legislature by the 10th day of each regular session, concerning the activities of the state and local panels during the previous fiscal year; the report must include the number of cases reviewed by each local panel, a description of the characteristics of the children whose cases were reviewed by the panels, the number of children reunited with their families, the number of children placed in other permanent homes, and recommendations and justifications for program improvement, including recommendations relating to state agencies and to the panel review system; the report may contain other information on the experience of the local panels. (§ 2 ch 117 SLA 1990)

**Editor's notes.** — This section is set out above to correct a minor error in the main pamphlet.

**Article 6. General Provisions.**

**Section**

**990. Definitions**

**Sec. 47.10.990. Definitions.** In this chapter, unless the context otherwise requires,

(1) "care" or "caring" under AS 47.10.010(a)(2)(A), 47.10.120(a) and 47.10.230(c), means to provide for the physical, emotional, mental, and social needs of the child;

(2) "child in need of aid", means a minor found to be within the jurisdiction of the court under AS 47.10.010(a)(2);

(3) "court" means the superior court of the state;

(4) "delinquent minor" means a minor found to be within the jurisdiction of the court under AS 47.10.010(a)(1);

(5) "department" means the Department of Health and Social Services;

(6) "juvenile detention facility" means separate quarters within a city jail used for the detention of delinquent minors;

(7) "juvenile detention home" or "detention home" is a separate establishment, exclusively devoted to the detention of minors on a short-term basis and not a part of an adult jail;

(8) "minor" is a person under 18 years of age;

(9) "victim" has the meaning given in AS 12.55.185. (§ 1 art I ch 145 SLA 1957; am § 5 ch 110 SLA 1967; am §§ 5, 6 ch 27 SLA 1970; am §§ 27 — 28 ch 63 SLA 1977; am §§ 91, 92 ch 138 SLA 1986; am § 18 ch 57 SLA 1991)

**Effect of amendments.** — The 1991 amendment, effective September 15, 1991, added paragraph (9).

## Chapter 17. Child Protection.

### Section 290. Definitions

#### Sec. 47.17.020. Persons required to report.

#### NOTES TO DECISIONS

**Minister-certified counselor's report not violating privilege.** — Nontestimonial report of sexual abuse given to authorities by a minister-certified counselor did not amount to a violation of the psychotherapist-patient or communications-with-clergy privileges. *Walstad v. State*, 818 P.2d 695 (Alaska Ct. App. 1991).

#### Sec. 47.17.290. Definitions. In this chapter

(1) "child" means a person under 18 years of age;

(2) "child abuse or neglect" means the physical injury or neglect, mental injury, sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by a person under circumstances that indicate that the child's health or welfare is harmed or threatened thereby; in this paragraph, "mental injury" means an injury to the emotional well-being, or intellectual or psychological capacity of a child, as evidenced by an observable and substantial impairment in the child's ability to function;

(3) "child care provider" means an adult individual, including a foster parent or an employee of an organization, who provides care and supervision to a child for compensation or reimbursement;

(4) "criminal negligence" has the meaning given in AS 11.81.900;

## FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB54 (FIN)

Revision Date: March 4, 1993 Dept. Affected: Health and Social Services  
 Title: "An act relating to violations of laws by Juveniles and providing for an effective date" BRU: Youth Facility Services  
 Component: MYC, FYF, BYF, NYF & JYC  
 Sponsor: Senator R. Halfofd  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0264,0265,0266,0267 &0268

**Expenditures/Revenues:**

(Thousands of Dollars)

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

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

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

**FUNDING:**

(Thousands of Dollars)

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

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

See attached for Fiscal Note Analysis

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

Phone: 465-3191  
 Date: 03/04/93

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

Date: 3/5/93

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**  
 For further distribution information call the Governor's Legislative Office

ANALYSIS (cont.):

FISCAL NOTE ANALYSIS – CSSB 54 (FIN)

The department estimates a range of 12–36 juvenile cases per year that could be referred, charged and convicted for crimes under CSSB 54 (FIN). The department bases this estimate on trend analysis of juvenile offender statistics for FY91, FY92 and the first 6 months of FY93. This analysis illustrates an unusually high number of referrals in FY92 for crimes specified under the bill.

The FY92 total increase in referrals is accompanied by a corresponding increase in the referrals for murder/manslaughter (15 cases).

If the previous 10 year average is computed the referrals for murder/manslaughter was 4.4. The department has not determined the reasons for the increase in murder/manslaughter referrals as this anomaly is the subject of further research. If the 15 murder/manslaughter cases are removed from the FY92 statistics the total cases would more closely approximate the trends of previous years. The department has no reason to believe that the increase is indicative of a continuing trend.

The department will not realize a cost saving if juvenile offenders under CSSB 54 (FIN) are removed from the department's jurisdiction. This is true based on two trends that are presently occurring in the juvenile offender population.

1) Currently the juvenile offender referral rate indicates a slightly increasing trend over the past 10 years and this trend is expected to continue. 2) The number of people in the age group of 10–17 years of age is also increasing and has been projected by demographers to continue to grow as much as 25% between 1990 and 1995.

The department concludes that the number of all types of juvenile offenders will increase in the immediate future and that the number of offenders effected under this bill is not significant to realize a cost savings.

#12  
E  
F

No. 12

FISCAL NOT

Bill Version: CSRB 54 (FIN)

(S) Publish Date: 2-26-93

REQUEST:

Revision Date: 2/25/93  
Title: An Act relating to violations of laws for juveniles...

Affected Agency: Administration  
BRU: Off. of Pub. Advoc.

Sponsor: Sen. Halford  
Requestor: Senate Finance

Components: Off. of Pub. Advoc.  
Component Serial No.: 43

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	22.5	23.2	23.9	24.6	25.4	26.1
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	22.5	23.2	23.9	24.6	25.4	26.1

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

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

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	22.5	23.2	23.9	24.6	25.4	26.1
Federal Fund	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	22.5	23.2	23.9	24.6	25.4	26.1

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)

See attached page 2.

Prepared By:  
Division:

Date:  
Phone:

Approved By:  
Agency:

Deanne Colchier Deanne Colchier  
Senate Finance Date: 2/26/93

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 54 (Fin)  
Page 2 of 2

Analysis Continued:

Fiscal Note for Dept. of Administration, Office of Public Advocacy.

The Office of Public Advocacy's estimate of 15 cases per year seems unjustified, given the relationship between OPA and PDA case loads. However, it is possible that certain defendants will choose to alter their defense strategies relative to other defendants in response to the more serious penalties they would automatically face under SB 54. We will estimate that increased number increased number to be three per year at \$7,500.00 each.

FISCAL NO :

Bill Version: CSSB 54 (FIN)

(S) Publish Date: 2-26-93

REQUEST:

Revision Date: 2/25/93  
Title: "An Act relating to violations  
of laws for juveniles..."

Affected Agency: Administration  
BRU: Pub.Defender Agy

Sponsor: Sen. Halford  
Requestor: Senate Finance

Component: Pub.Defender Agy  
Component Serial No. 1631

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	2.5	2.6	2.7	2.8	2.9	3.0
Contractual	2.5	2.6	2.7	2.8	2.9	3.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
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
<b>TOTAL OPERATING</b>	<b>6.0</b>	<b>6.2</b>	<b>6.4</b>	<b>6.6</b>	<b>6.8</b>	<b>7.0</b>

<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
----------------	------------	------------	------------	------------	------------	------------

<b>REVENUE</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
----------------	------------	------------	------------	------------	------------	------------

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	6.0	6.2	6.4	6.6	6.8	7.0
Federal Fund	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
<b>TOTAL</b>	<b>6.0</b>	<b>6.2</b>	<b>6.4</b>	<b>6.6</b>	<b>6.8</b>	<b>7.0</b>

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)

See Attached

Prepared By:  
Division:

Date:  
Phone:

Approved By:  
Agency:

Steve Deacon  
Senate Finance Co. Chair

Date: 2/26/93

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 54 (Fin)  
Page 2 of 2

Analysis Continued:

Fiscal Note for Dept. of Administration, Public Defender Agency

It is important to note that SB 54 does not define any new crimes and therefore will not create new criminal cases. SB 54 merely changes the procedure in which these cases are handled.

The Department of Law will control by its charging practices the number of cases to which the PDA will need to respond. Furthermore, the Department of Law has submitted a zero fiscal note. It would seem the resources required to prosecute and defend should be somewhat similar.

The Department of Law estimates it will pursue approximately 25 cases per year under the automatic waiver conditions created by SB 54. Those cases would represent only 5% of the Public Defender Agency's current juvenile workload. Therefore, the Public Defender agency's request for a \$130.5 increase in personal services plus consequent travel, equipment, office space, and supplies is unjustified.

The procedural changes provided for in SB 54 may require slightly more travel, reliance on experts, and supplies in the following amounts:

- |                                      |   |       |
|--------------------------------------|---|-------|
| a) Travel (Professional and Experts) | = | \$2.5 |
| b) Contractual (Expert Witnesses)    | = | \$2.5 |
| c) Supplies                          | = | \$1.0 |

F I S C A L N O T

Bill Version: CSSB 54 (FIN)

(S) Publish Date: 2-26-93

REQUEST:

Revision Date: 2/25/93  
Title: "An Act relating to violations of laws for juveniles..."

Affected Agency: Alaska Court Sys  
BRU: Trial Courts

Sponsor: Sen. Halford  
Requestor: Senate Finance

Component:  
Component Serial No. 768

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	24.5	24.5	24.5	24.5	24.5	24.5
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
<b>TOTAL OPERATING</b>	<b>24.5</b>	<b>24.5</b>	<b>24.5</b>	<b>24.5</b>	<b>24.5</b>	<b>24.5</b>

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

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

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	24.5	24.5	24.5	24.5	24.5	24.5
Federal Fund	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
<b>TOTAL</b>	<b>24.5</b>	<b>24.5</b>	<b>24.5</b>	<b>24.5</b>	<b>24.5</b>	<b>24.5</b>

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)

Reduction of \$15.4 from original submission. Allowed \$24.5 in juror's time due to est'd increase of 10 trials. Parttime judge not allowed.

Prepared By: \_\_\_\_\_

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

Division: \_\_\_\_\_

Phone: \_\_\_\_\_

Approved By: \_\_\_\_\_

Agency: \_\_\_\_\_

*Senate Finance Co-Chair*  
*Senate Finance Co-Chair*

Date: 2/26/93

# FISCAL NOTE

No. 9

Bill Version: CSSB 54 (Fin)

(S) Publish Date: 2-24-93

**STATE OF ALASKA  
1993 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: "An Act relating to violations of laws by juveniles...." BRU: Statewide Programs  
 Sponsor: Sen. Halford Component: Statewide Programs  
 Requestor: Senate Finance COMPONENT SERIAL NO. \_\_\_\_\_

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

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	10.8	262.8	481.8	700.8	919.8	1138.
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>10.8</b>	<b>262.8</b>	<b>481.8</b>	<b>700.8</b>	<b>919.8</b>	<b>1138.</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE FUND SOURCE:</b>						
-----------------------------	--	--	--	--	--	--

**FUNDING:** (Thousands of Dollars)

FUNDING	FY94	FY95	FY96	FY97	FY98	FY99
1002 Federal Receipts						
1003 GF Match						
1004 GF	10.8	262.8	481.8	700.8	919.8	1138.
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>10.8</b>	<b>262.8</b>	<b>481.8</b>	<b>700.8</b>	<b>919.8</b>	<b>1138</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

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

See attached fiscal analysis

Changes in CSSB 54 (Fin)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
2-24-93 RL  
 date Comte Aide (initial)

Prepared by: Dana LaTour, Special Assistant  
 Division: Office of the Commissioner  
 Approved by Commissioner: Lloyd G. Rupp  
 Agency: Department of Corrections

Phone: 465-3376  
 Date: 2-23-93  
 Date: 2-23-93

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**  
 For further distribution information call the Governor's Legislative Office

Using statistics received from the Division of Family and Youth Services, the Department of Corrections estimates that approximately 19 juveniles per year will be formally charged for crimes that would qualify for waiver under CSSB 54. The department estimates that 15 would be found guilty, and 4 would probably plea to a lesser charge. Assuming that five juveniles are waived to adult jurisdiction under present law, this change would result in 10 additional juvenile offenders added to the system each year.

The mandatory minimum sentence for Murder 1 is 20 years. The presumptive sentences for a Class A felony is seven years. The department is estimating an average sentence length for offenses considered under CSSB 54 to be thirty years. Subtracting one-third of the sentence for statutory good time results in average sentence served of 20 years.

The formula used in calculating the fiscal impact of this bill follows:

FY 94	2 minors convicted by 3rd quarter of year x 3 months x \$60/day = \$10,800
FY 95	10 minors + 2 from FY94 x 365 days x \$60 day = \$262,800
FY 96	10 minors + 12 (FY 94,95) x 365 x \$60 day = \$481,800
FY 97	10 minors + 22 (FY 94-96) x 365 x \$60 day = \$700,800
FY 98	10 minors + 32 (FY 94-97) x 365 x \$60 day = \$919,800
FY 99	10 minors + 42 (FY 94-98) x 365 x \$60 day = \$1,138,000

Because populations within correctional facilities are already exceeding emergency caps, it is assumed that other offenders will be transferred to CRC placements in order to make room for the offenders addressed in this legislation.

The estimated costs are based on CRC beds since it is not possible to predict when the increases in incarceration would actually require adding new prison beds to the system. Cost of placement in a correctional center is approximately \$100 a day.

FISCAL NOTE

No. 7

Bill Version: CSB 54 (Jud)

(S) Publish Date: 2-24-93

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Revision Date: February 23, 1993

Title: "An Act relating to violations of laws by juveniles..."

Sponsor: Senator Halford

Requestor: Senator Halford

Department Affected: Department of Law

BRU: Prosecution

Component: All

COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

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

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

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

FUNDING:

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

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

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

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Changes in CSB 54 (Fin) have no fiscal impact. This fiscal note is appropriate.  
2-26-93 date KA Comte Aide (initial)

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

Phone: 465-3672  
 Date: February 23, 1993

Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law

Date: February 23, 1993

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office

## FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 54 (JUD)

### ANALYSIS (Continued):

The revisions in the Senate Judiciary Committee Substitute for SB 54 would automatically waive 14 and 15 year olds to "adult" court who are charged with first or second degree murder, or who are charged with an attempt or solicitation to commit first or second degree murder. Under the bill, 14 and 15 year olds would also be automatically waived who are charged with a felony in any degree and who have previously been convicted as an adult of any felony. We note that this last provision, waiving 14 and 15 year olds with a prior felony conviction in any degree, appears to treat this age group more severely than 16 or 17 year olds who, when they are charged with a felony crime against a person, other than an unclassified or class A felony, can be waived only with a prior conviction or adjudication for a felony crime against a person. The bill and earlier versions would already waive minors who are 16 years of age or older who are charged with an unclassified or class A felony, or who are charged with a crime against a person that is a felony other than an unclassified or class A felony, and the minor has previously been adjudicated as a delinquent or convicted as an adult for a felony crime against a person.

The committee substitute restores the existing amount that may be recovered in a civil action to \$2,000, as compared to the \$5,000 limit included in the 2/15/92 Work Draft version of the bill.

The committee substitute also requires that in a petition by a minor to have the charges removed from "adult" court, and adjudicated in a juvenile proceeding under AS 47.10.020 - 47.10.090, the minor bears the burden of proving by a preponderance of the evidence that he or she is amenable to treatment as a juvenile before reaching 20 years of age.

As we have commented previously, adoption of this bill could increase our felony caseload by an average of 25 to 30 new cases each year. However, the amount of the increase, which may vary widely from year to year, does not warrant fiscal note costs at any particular location. Consequently, this zero fiscal note has been submitted. We do caution, however, that recent demographic studies indicate that the population for the ages 10 years to 17 years may grow by over 25 percent in the next few years. This factor may cause a caseload increase in the future that would require additional prosecution resources. In that event, we would either have to receive more resources or decline to prosecute a substantial number of minors in "adult" court.

**FISCAL NOTE**

No. 60

**STATE OF ALASKA  
1993 LEGISLATIVE SESSION**

Bill Version: CSSB 54 (JUD)

(S) Publish Date: 2-24-93

Revision Date: <u>02/23/93</u>	Dept. Affected: <u>Health and Social Services</u>
Title: <u>"An act relating to violations of laws by Juveniles and providing for an effective date"</u>	BRU: <u>Youth Facility &amp; Family &amp; Youth Svcs</u>
Sponsor: <u>Senator R. Halford</u>	Component: <u>MYC, FYF, BYF, NYF &amp; JYC</u>
Requestor: _____	<u>SCRO, NRO &amp; SERO</u>
	COMPONENT SERIAL NO. <u>0264-0268,0254,0255&amp;0258</u>

**Expenditures/Revenues:**

(Thousands of Dollars)

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

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE FUND SOURCE</b>						
----------------------------	--	--	--	--	--	--

**FUNDING:**

(Thousands of Dollars)

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Changes in CSSB 54 (FIN) have no fiscal impact. This fiscal note is appropriate.

Estimate of current year (FY93) impact: 0.0

2-26-93 date kh Comte Aide(initial)

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

The department estimates that a high of 34 juveniles per year could be referred, charged and convicted for crimes that would qualify for presumptive waiver under CSSB54.

The department bases this estimate on juvenile offender statistics for FY91, FY92 and the first 6 months of FY93. The department also assumes the petitions to waive the juvenile back to juvenile court will not be successful to any great degree.

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

Phone: 465-3191  
 Date: 02/23/93

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

Date: 2/25/93

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**  
 For further distribution information call the Governor's Legislative Office

**ANALYSIS (cont.):**

The department recognizes that FY92 experienced unusually high referrals for the charge of murder/manslaughter (15 cases). This becomes clear by the fact that over the preceding 10 years an average of 4.4 cases were referred for murder/manslaughter. The department has no reason to believe that the FY92 cases represent a continuing trend as the FY93 referrals to date is 0.

The reduction in cases that could result if this bill becomes law is very low when compared to the overall youth corrections caseload. During the past three fiscal years the department has been averaging 6,704 referrals statewide of which the estimated 34 per year represent only 0.5% of the total referrals.

(SEE ATTACHED charge type listing for further detail.)

CSSB 54  
Fiscal Note Attachment

DHSS Youth Offender Statistics

- Category (1) (A)      FY 1991 - 12 of the 32 cases referred were formally charged with an unclassified or class A felony.
- FY 1992 - 28 of the 60 cases referred were formally charged with an unclassified or class A felony.
- FY 1993 - (7/1/92 thru 12/31/92) 11 of the 27 cases referred were formally charged with an unclassified or class A felony.
- Total for (1) (A) crimes is 51 for 30 months of referrals.
- Category (1) (B)      FY 1991 - 0 of the 2 cases referred were formally charged with an felony crime against a person and had a previous adjudication.
- FY 1992 - 0 of the 2 cases referred were formally charged with an felony crime against a person and had a previous adjudication.
- FY 1993 - (7/1/92 thru 12/31/92) 1 of 1 case referred was formally charged with a felony crime against a person and had a previous adjudication.
- Total (1) (B) crimes is 1 for 30 months of referrals.
- Category (2) (A)      FY 1991 - There were 0 cases referred in this category.
- FY 1992 - 6 of the 6 cases referred were formally charged with murder.
- FY 1993 - (7/1/92 thru 12/31/92) There were 0 cases referred in this category.
- Total (2) (A) crimes is 6 for 30 months of referrals.
- Category (2) (B)      FY 1991 - There were 0 cases referred and formally charged with a

unclassified or class A felony and had a previous felony adjudication.

FY 1992 - 2 of the 13 cases referred were formally charged with an unclassified or class A felony and had a previous felony adjudication.

FY 1993 - (7/1/92 thru 12/31/92) of 0 cases referred and formally charged with an unclassified or class A felony and had a previous felony adjudication.

Total (2) (B) crimes is 2 for 30 months of referrals.

Category (2) (C)

FY 1991 - There were 0 cases referred and formally charged with a felony and had a previous conviction as an adult for a felony.

FY 1992 - There were 0 cases referred and formally charged with a felony and had a previous conviction as an adult for a felony.

FY 1993 - (7/1/92 thru 12/31/92) There were 0 cases referred and formally charged with a felony and had a previous conviction as an adult for a felony.

Total (2) (C) crimes is 0 for 30 months of referrals.

Data source DFYS PROBER

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

No. 2

Bill Version: SB 54

(S) Publish Date: 2-19-93

Revision 2/15/93 Dept. Affected: Public Safety

Title: "An Act relating to violations of laws BRU: Alaska State Troopers

by juveniles..." Component: Detachments

Sponsor: Senator Halford

Requestor: Senate Judiciary COMPONENT SERIAL NO. 799

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

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>REVENUE FUND SOURCE:</b>						

**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

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

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

ANALYSIS: (Attach a separate page if necessary.)

No significant fiscal impact upon the Alaska State Troopers is anticipated

Changes in CS54 (Fin) have no fiscal impact. This fiscal note is appropriate.

2-26-93 kl  
date Comte Aide (initial)

Prepared By: Francis C. Allan Phone: 269-5691

Division: Alaska State Troopers Date: 2/15/93

Approved by Commissioner: [Signature] Date: 2/17/93

Agency: Richard I. Burton, Dept. of Public Safety

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

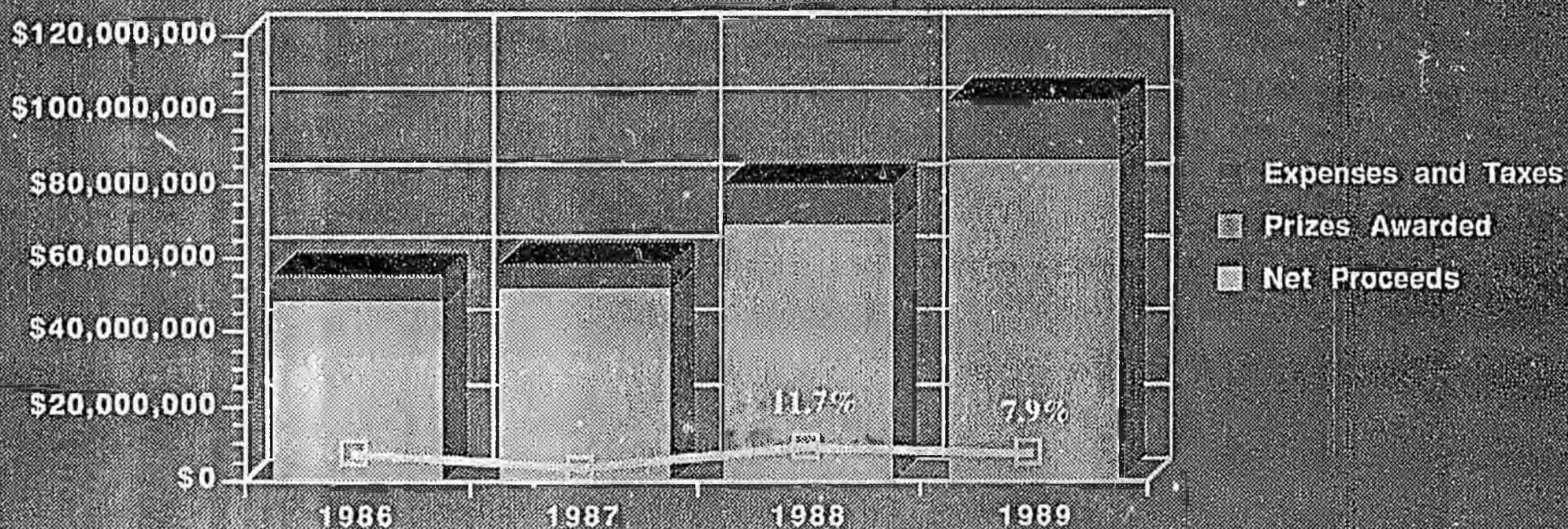
For further distribution information call the Governor's Legislative Office

9 L

B S

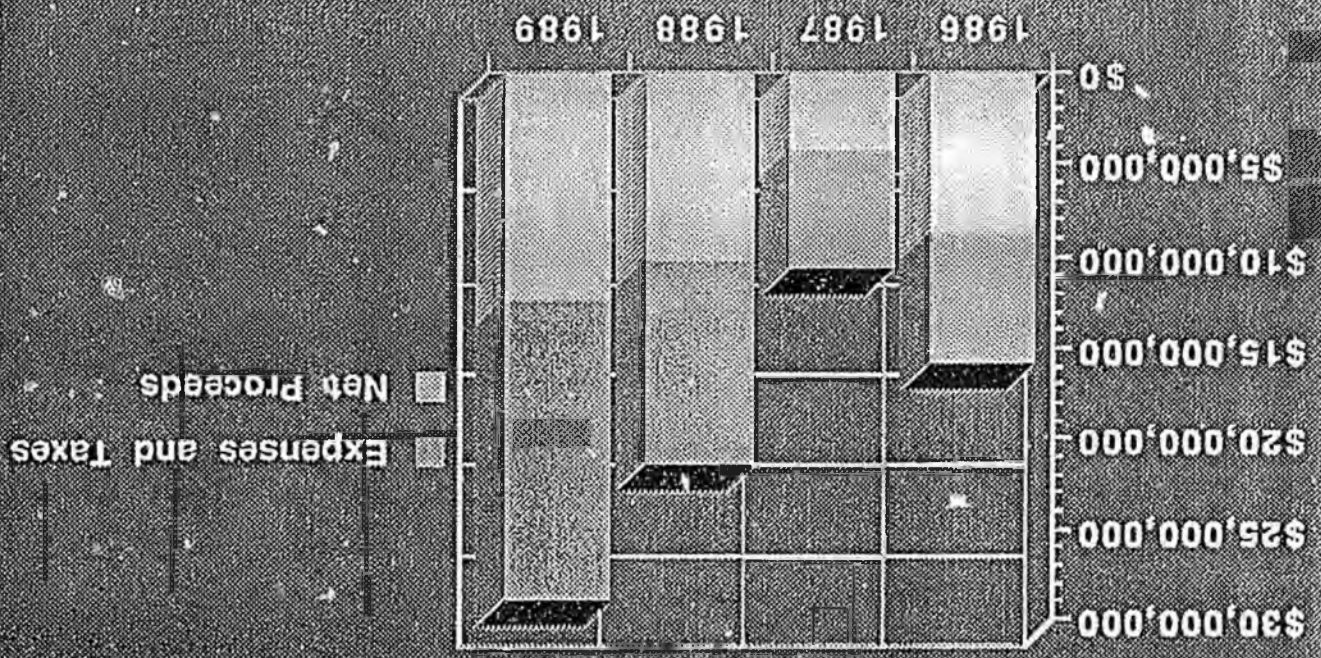
# State Calculated Net

## Percentage of Net Proceeds After Prizes Awarded and Taxes Subtracted



# True Net

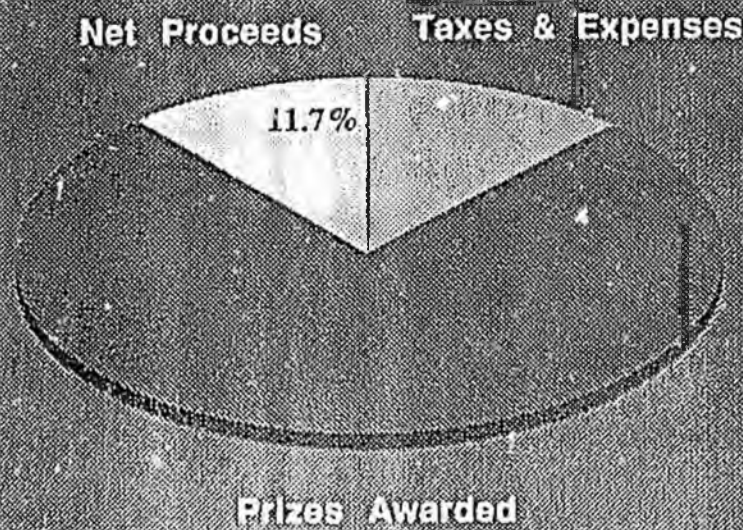
Percentage of Net Proceeds to Adjusted Gross  
(gross receipts - prizes awarded and taxes)



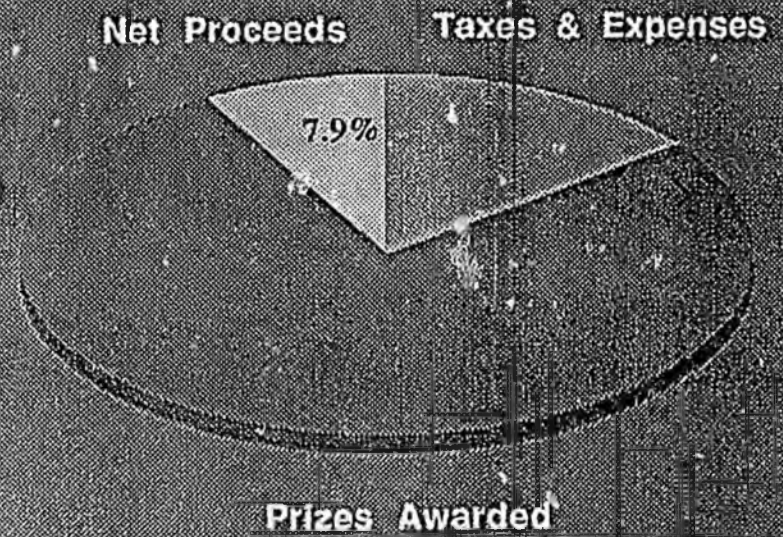
# State Calculated Net

## Net Percentage of Gross Gaming Receipts

1988



1989



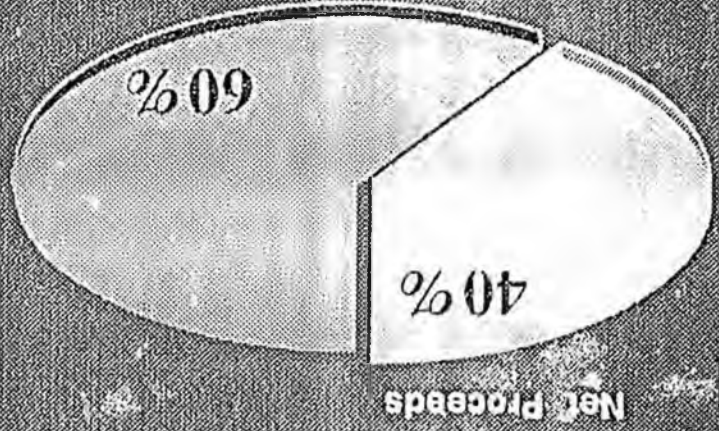
- Taxes & Expenses
- Prizes Awarded
- Net Proceeds

# True Net

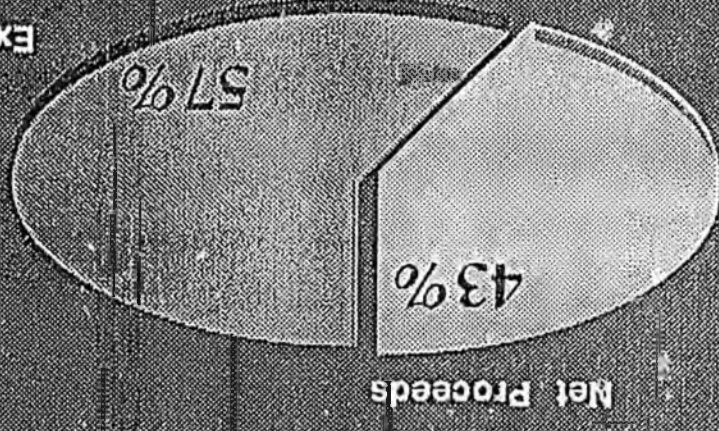
## Percentage of Net Proceeds to Adjusted Gross

(gross receipts - prizes awarded and taxes)

1988



1989



C O M P A R I T I V E    A N A L Y S I S

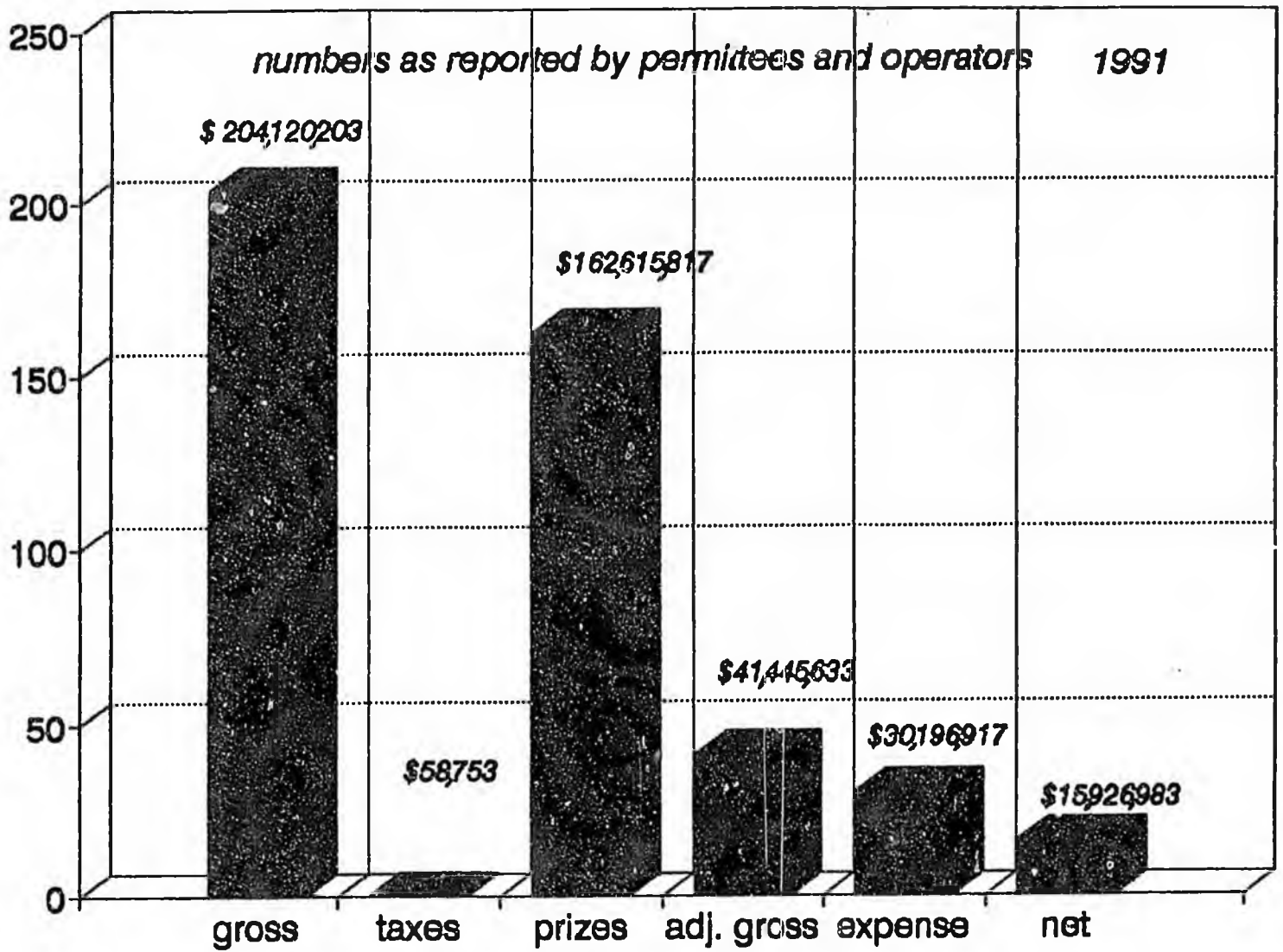
HB-168 (JUD)

SB-76

- 1) M B P
- 2) Contract Approval
- 3) Raising 15% to  
40% - 15% [2 consecutive quarters]

- 1) M B P
- 2) Contract Approval
- 3) Raising 15% to  
30% - 10% [each quarter]
- 4) Prohibits inside information.
- 5) Vendors required to pay 50% at time  
of delivery.
- 6) Requires NAGRA pull tab standards.
- 7) Prohibits Felons involvement. / 100sens  
misdemeanors
- 8) Prohibits Net Proceeds for campaigns  
& Lobbyists.
- 9) Provides specific suspension/  
revocation authority up to 5 years  
for licensee's or vendors.
- 10) Provides authority to commissioner  
to issue an emergency 60 day order.

*Nett  
Assn  
of  
Gaming  
Regulators*



"SPORTS FANTASTIC"		SF835
Takes in 6047 Cards @ \$1		\$6,047.00
Pays Out:		
3 - SB, SB, Green SB	at	\$250.00.....\$750.00
3 - SB, SB, Race Car	at	\$250.00.....\$750.00
3 - SB, SB, Golf	at	\$75.00.....\$225.00
50 - SB, SB, Helmet	at	\$10.00.....\$500.00
500 - SB, SB, Diamond	at	\$2.00.....\$1,000.00
4 - 3 Eight Balls	at	\$50.00.....\$200.00
50 - 3 Basketballs	at	\$5.00.....\$250.00
200 - 3 Hockey	at	\$2.00.....\$400.00
500 - 3 Bowling	at	\$1.00.....\$500.00
TOTAL PAYOUT .....		\$4,575.00
GROSS PROFIT .....		\$1,472.00

PAY-CHECK™		
\$1		
QTY	CODE	BLACK
6	D	\$250.00
3	D	\$75.00
4	D	\$50.00
50	D	\$10.00
50	D	\$5.00
600	D	\$2.00
28	D	\$4.00
44	D	\$3.00
456	D	\$1.00



# HIGGINS CORP.

CAMPAIGNS • MEDIA • GOVERNMENT RELATIONS • PUBLIC RELATIONS

April 20, 1993

The Honorable Ramona Barnes  
Speaker of the House  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99801

Dear Speaker Barnes:

For the past three weeks I have watched the Senate debate on charitable gaming legislation turn from the merits of the legislation to a personal attack against me and my client that is based on rumors, misinformation and outright lies. Amazingly, the person fueling this animosity is Acting Commissioner of Commerce Paul Fuhs.

I am writing you because I believe Commissioner Fuhs has gone too far. Commissioner Fuhs has publicly ridiculed me and done everything he can to harm my reputation. He has misrepresented my position on charitable gaming reform and constructed complete fabrications in an attempt to discredit me.

More astonishing, Commissioner Fuhs and employees under his direction have broken criminal law in their attempt to gain information to fuel a personal attack against me. I have enclosed a letter I recently wrote to the Governor outlining Commissioner Fuhs involvement in an illegal search for confidential, private documents. The search was conducted by DCED Legislative Liaison Wendy Mulder at the direction of Commissioner Fuhs.

The day after the confidential, private documents were obtained and immediately read into the public record by Fuhs, Ms. Mulder called me to apologize for her conduct. Ms. Mulder said that the situation had gotten completely out of control and that she knew that she had engaged in improper activities.

Fuhs continues to maintain, however, that there was nothing wrong with the actions his staff took at his direction. Additionally, I have attached a transcript of a radio interview Commissioner Fuhs gave in Anchorage last week during which he outright lied about the actions the Department took to obtain these documents. I also have a tape recording of the broadcast, should you desire to hear it.

Speaker Barnes

April 20, 1993

page 2

I have also enclosed a copy of a note Commissioner Fuhs wrote to his friend Chip Thoma. Fuhs passed the note to Thoma during Senate Judiciary hearings on SB 76. In the note, Fuhs states that he has nothing against my clients, and indeed he believes my clients run "one of the cleanest" operations in the gaming industry. Nonetheless, when viewed in light of recent steps the Commissioner has taken to discredit them, it is painfully obvious Fuhs is engaging in serious double talk.

I believe that Fuhs is defaming me and ridiculing my client for the simple reason that we disagree with him on some aspects of the gaming legislation currently before the legislature. My client and I have long supported meaningful gaming reform and, of all operators, my client continues to return the highest percentage to the charities. Gaming Director John Hansen has testified on more than one occasion that my clients run the best operation in the gaming industry. Fuhs claims that we are not raising legitimate policy concerns, yet the bill is repeatedly changed outside of the committee process to address the issues we have raised.

The truth of the matter is that SB 76, in its present form, is a gambling expansion bill. Commissioner Fuhs states otherwise, but instead of focusing his attention on the debate over the merits of the legislation, he has launched into a vicious personal attack against me. His conduct is neither professional nor ethical and there is substantial evidence to show that it is also unlawful. It is certainly not conduct befitting one of the highest public officials of our state.

I am writing to request your help in putting a stop to the unethical tactics Commissioner Fuhs has employed in his attempt to defame me and draw attention away from the real policy questions that SB 76 presents. I would also respectfully request that there be an investigation into the steps Commissioner Fuhs and his staff took in illegally obtaining, then publicly releasing private documents solely the property of my client and the radio station. I was a constituent of yours for many years and would appreciate any help you can give me in this matter.

Sincerely,



Mark M. Higgins  
President

Enclosures



## HIGGINS CORP.

CAMPAIGNS • MEDIA • GOVERNMENT RELATIONS • PUBLIC RELATIONS

April 20, 1993

The Honorable Walter J. Hickel  
Governor, State of Alaska  
State Capitol  
Juneau, AK 99801

Dear Governor Hickel:

My purpose in writing you today is to inform you of the unethical and illegal manner by which Paul Fuhs, your Acting Commissioner of the Department of Commerce and Economic Development, continues to conduct state business. Commissioner Fuhs and other state employees under his direction have misrepresented themselves to numerous parties, and have published outright fabrications about myself and my client.

But even more seriously, when gathering information upon which to base these untruths, the Commissioner and his staff broke the law when they conducted an illegal search for private documents, which they then released into the public record at a state-wide teleconference. I believe their actions constitute a violation of laws governing criminal theft and official misconduct. Moreover, for the past several weeks Commissioner Fuhs has conducted himself in ways not befitting a public official. I am writing you to inform you of this matter and to determine whether you condone Commissioner Fuhs' actions.

I am a registered lobbyist and represent, among others, the Alaska Charitable Games Association. I met with Commissioner Fuhs in a recent visit to Juneau to discuss SB 76 and HB 168, gaming bills that are before the legislature this session. I informed Commissioner Fuhs that my client could not support some of the provisions in what has become gambling expansion legislation. However, I also told him that I respected his right to pursue policy goals that he deemed appropriate. Commissioner Fuhs said he understood and agreed that there are merits to all sides of the debate.

Nevertheless, shortly after my objection to certain aspects of the bill, Commissioner Fuhs began a vicious personal assault on my character and my client's reputation. Without regard to the truth, Fuhs has repeatedly engaged in offensive and demeaning attacks on my integrity, my family's name, and my client's business. In widely sensational press releases, distributed under the authority of the state seal, Fuhs has ridiculed me personally, misstated my position on the gaming issue and outright lied about my professional involvement with a client who retained my firm to place ads on their behalf. Fuhs has insinuated that my client and I are "dishonest," "the dark side" and in an outrageous slight on the Jewish faith, referred to all operators as attempting to "extract a pound of flesh" from charities.

Governor Walter J. Hickel

April 20, 1993

page 2

Such derogatory public comments are inexcusable coming from one of the highest ranking officials of our state. Moreover, they have no basis in truth. Fuhs and Gaming Director John Hansen have publicly stated on numerous prior occasions that my client runs the cleanest operation in the gaming industry and has consistently returned the highest net percentage to its charities of any operator in this state. We also did not join in the lawsuit to oppose regulations you promulgated last year to increase the net return to charities. We voluntarily complied and in fact, began paying the higher percentage in advance of implementation of the regulations.

As recently as three weeks ago, Commissioner Fuhs reiterated that he had no problem with me or my client. In a note Fuhs passed to his good friend Chip Thoma during a recent Senate Judiciary committee hearing, Fuhs states that he has nothing against my clients, and indeed he believes my clients run the best operation in the gaming industry. See Thoma note, Attachment A.

In light of that note and his oft-repeated prior statements, my client and I are left to wonder what justifies this person's zealous quest to destroy our reputations. Simply because we disagree with him on the questionable merits of a gambling expansion bill being pushed by numerous special interests and the liquor lobby, Commissioner Fuhs has decided to publicly defame and ridicule us and ignore the merits of the arguments we raise -- despite the undisputable fact that each time we raise a concern about the ramifications of the legislation, the bill is changed to correct the problem we pointed out.

I am also outraged that, as a public official, Commissioner Fuhs has endorsed unethical and potentially illegal conduct by public employees under his direction in order to gain ammunition for his personal attack. In response to radio ads alerting citizens to the fact that the Pearce gaming bill would allow pull-tab machines to be placed literally anywhere in Alaska, Commissioner Fuhs directed his staff to determine who had purchased the ads. The ads were sponsored by a group "Alaskans for Less Gaming."

Fuhs' staff contacted several radio stations but were unable to obtain any additional information about the group because the radio buys were not a matter of public information under APOC law. The group was not engaged in direct lobbying, and simply attempted to inform people of the ramifications of the bill and urged citizens to send POM's. The group had contacted the APOC in advance to determine whether or not it needed to register and had been told that it did not need to register and that its purchases of radio time would not be subject to public inspection. Each of the stations contacted by Commissioner Fuhs staff informed them that they could not release information about the buy because it was a private transaction and not a matter of public information.

Nevertheless, when informed that there was no legal access to the information, Fuhs directed his staff to attempt to gain the information through other means. At approximately 3:00 p.m., April 7, at the direction of Commissioner Fuhs, Wendy Mulder, Legislative Liaison for the Department of Commerce and Economic Development, contacted a friend of hers Mr. Craig Seibert, an Account Executive at KASH radio in Anchorage. Mr. Seibert plays softball with Wendy and her husband Representative Eldon Mulder each summer. Ms. Mulder knowingly and specifically requested that Mr. Seibert go into a

Governor Walter J. Hickel

April 20, 1993

page 3

confidential file at KASH Radio to determine who placed media buys for the organization Alaskans for Less Gaming. As already noted, that information is confidential between a radio station and the company who placed the buy. Mr. Seibert then copied the media buy and faxed it to Ms. Mulder at approximately 3:30 p.m.

Upon receipt of the fax, Commissioner Fuhs immediately generated a press release that incorrectly stated that I had paid for the ads and that the group was nothing more than a front group for my gaming clients. Fuhs then photo-copied the KASH document and began widespread distribution to legislators. He also read the press release and the illegally obtained document into the public record during a state-wide teleconference that night.

There is criminal law barring Ms. Mulder's and Mr. Seibert's actions. It is called theft. AS 11.46.100-110. If Commissioner Fuhs solicited Ms. Mulder to commit this offense he is an accomplice and this action is also barred by criminal law. AS 11.46.110. However, there is no doubt that, before providing this information for the public record, Commissioner Fuhs was aware or should have been aware of the illegal manner in which this information was obtained. A small amount of common sense on Commissioner Fuhs part should have led him to question why a confidential business document should be part of the public record.

Andy Lohman, Station Manager for KASH radio, confirmed with Higgins Corp. that Mr. Seibert had in fact faxed a copy of the media buy to Wendy Mulder. He has indicated that he is taking disciplinary action against his employee and is extremely upset that public officials of the state would engage in such behavior. Wendy Mulder also called me on April 8 to personally apologize for her actions. She admitted that she was wrong in obtaining the information in the manner she did, and apologized for the violation. Ms. Mulder also stated that things had gotten way out of hand in Juneau and that she should have objected and refused to participate.

Commissioner Fuhs on the other hand has refused to admit that the actions of his staff were improper. More amazingly, Fuhs even lied on a recent live radio broadcast about what actually occurred. On April 9, Commissioner Fuhs was a guest on the Fritz Pettijohn radio talk show in Anchorage. During the broadcast, in response to a question about how the information was obtained, Fuhs stated: "Uh, when we heard that this ad was coming out, and we wondered who are Alaskans for Less Gaming, we just called up and said, uh, who's placing the ads. We just called the station and they said well, we'll send you a copy of it." That statement is a lie and Commissioner Fuhs knew it at the time he uttered it. I have attached a copy of the transcript and I also have a tape recording of the broadcast, should you desire to hear it.

The fact is, I had spoken with Commissioner Fuhs on April 8 and he had confirmed that he knew that his staff had obtained the document through other means - namely by using a friendship to break into a private file. During that conversation, I asked the Commissioner what aspect of the radio ad was inaccurate or not truthful. Fuhs responded: "We are not

Governor Walter J. Hickel

April 20, 1993

page 4

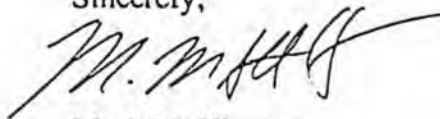
contesting the accuracy of the ad, we just want to know who you did it for -- did you do it for Prevo?" I informed the Commissioner that I was not at liberty to disclose that information, but that the real issue was the debate on the merits of the legislation and not who raised concerns about its implications.

Other employees under the direction of Commissioner Fuhs also assisted in this unlawful information search. On Wednesday April 8, a radio station account executive called Higgins Corp. to inform us that a Ms. Susan Rider had called them. They indicated that Ms. Rider stated she was representing the Alaska Public Offices Commission and that she was requesting information about the media buys from Alaskans for Less Gaming. The stations refused to provide the information because it is confidential and a clear violation of their client's right to privacy. In truth Susan Rider was not an employee of APOC. Susan Rider is employed as a floater with Administrative Services and is presently assigned to assist the Special Assistant to Commissioner Fuhs, Cindy Roberts. She called these stations at the request of her superior, which she named to Higgins Corp. as Cindy Roberts. When confronted Rider stated to me that she did tell the account executive she was "gathering information for the APOC." She claimed that she informed the station that she worked for DCED, but the station maintains that she did not and that the call was recorded as a call from the APOC. Such misrepresentations are at a minimum deceptive tactics, and are clearly inappropriate actions for public officials to engage in.

I believe that Commissioner Fuhs actions taken in total demonstrate a clear abuse of office barred at least by AS 11.56.850 and potentially a violation of several of our state's criminal laws.

Throughout my relationship with Commissioner Fuhs and the Department of Commerce, I have continued to conduct myself professionally. I have always been up-front with the Commissioner and have limited my disagreements with him to the merits of the legislation. I have never acted to impugn his name or his reputation. It is obvious that he has not acted with the same common decency or professional decorum. Indeed his recent actions appear to be both unethical and unlawful.

Sincerely,



Mark M. Higgins

President

Enclosures

cc: Representative Ramona Barnes

DEPARTMENT OF COMMERCE' ACTIONS ON CHARITABLE GAMING  
CHRONOLOGY OF EVENTS

1. March 31. Commissioner Fuhs held a press conference to announce the Governor's support for gaming legislation and released a press release that wrongly implicated my client. The press release incorrectly stated that I represent an organization that attempted to gain improper expenses from charities. This is completely untrue. Commissioner Fuhs attributed wrong-doing to my client that properly rests with the Charitable Games Association of Alaska, an organization represented by Mr. Mitch Gravo. When I confronted Commissioner Fuhs, he admitted the press release was wrong. He apologized for this mistake and said the misinformation came from the Governor's office. I accepted the Commissioner's apology.

2. April 7. Alaskan for Less Gaming radio spot ran in Anchorage.

3. April 7, 3:00 p.m. At the direction of Commissioner Fuhs, Wendy Mulder, Legislative Liaison for the Department of Commerce, contacted a friend Craig Seibert, an Account Executive at KASH radio in Anchorage. Mr. Seibert plays softball with Wendy and her husband Representative Eldon Mulder each summer. Ms. Mulder requested that Seibert go into the confidential file at KASH Radio to determine who placed media buys for the organization Alaskans for Less Gaming. This information is confidential between a radio station and the company who placed the buy. More importantly, this document is private property belonging to Higgins Corporation. Without the permission of the radio station owner or Higgins Corporation, Seibert then copied the media buy and faxed it to Mulder at approximately 3:30 p.m. Mulder's and Seibert's actions constitute theft. AS 11.46.100-110. If Commissioner Fuhs solicited Ms. Mulder to commit this offense, he is an accomplice and this action is also barred by criminal law. AS 11.46.110.

4. April 7, 6:15 p.m. Commissioner Fuhs testifies before the Senate Finance Committee and releases the media buy into the public record at a state-wide teleconference on SB 76. This is completely private information that in no way should be part of the public record: one, because it was stolen and two, because its disclosure is not authorized by law. This improper disclosure is a possible violation of AS 39.52.140(B).

5. Same time. Commissioner Fuhs read a document into the public record. In his public statement, Commissioner Fuhs wrongly accused Higgins Corporation of representing and sponsoring a group, Alaskans for Less Gaming, that has failed to register with APOC. He also made up the story that I was compensated by this group, that it is a front group for my client, and that this group is headquartered at Higgins Corporation. See Attachment B.

All of these accusations are completely untrue. Commissioner Fuhs has invented a scenario that has no basis in fact. If questioned he will not be able to show one element to prove this supposed conspiracy. That is because no conspiracy exists. I was contacted by a group, Alaskans for Less Gaming, that was

opposed to this bill. My office called APOC four times on their behalf to determine if they were required to file with APOC. We were repeatedly told they were not. All I did was place ads for this group. Neither did I lobby for them nor was I compensated by them. They are not headquartered at my office and in no way are they affiliated with my client the Alaska Charitable Games Association. I placed the Alaskans for Less Gaming ad for the simple reason that their ad had merit. In fact, it should be noted that SB 76 was eventually amended to address concerns raised by the ad.

6. April 7, 1993, 7:00 p.m. After confronting Mr. Seibert, Andy L... Station Manager for KASH radio, confirmed with Higgins Corporation that Mr. Seibert in fact faxed a copy of the media buy to Wendy Mulder. This was the fax that Commissioner Fuhs later placed into the public record.

7. April 8, 1993, 12:00 p.m. Wendy Mulder called KASH and Higgins Corporation. She admitted that she specifically asked Mr. Seibert to go into a private file to obtain the media buy and fax it to her. She said her actions were completely inappropriate and she apologized for her role in this scheme by the Department of Commerce. She said that the situation in Juneau was entirely out of control and that the wrong-doing had gone beyond her.

8. April 8, mid-morning A radio station account executive called Higgins Corporation and informed my office that a Ms. Susan Rider had called them. He indicated that Ms. Rider stated she was representing the Alaska Public Offices Commission and that she was requesting information about the media buys from Alaskans for Less Gaming. The stations refused to provide the information because it is confidential and a clear violation of their client's right to privacy. In truth Susan Rider was not an employee of APOC. Susan Rider is employed as a floater with Administrative Services and is presently assigned to assist the Special Assistant to Commissioner Fuhs, Cindy Roberts. Rider called these stations at the request of her superior, which she named to Higgins Corporation as Cindy Roberts. When confronted Rider stated to Higgins Corporation that she did tell the account executive she was "getting information for the APOC."

Such misrepresentation are at a minimum deceptive tactics, are clearly inappropriate activities for public officials to engage in. Commissioner Fuhs is having state employees lie about who they represent in order to gain just one more piece of nonexistent evidence for his supposed conspiracy. It is just one more example to demonstrate that the Department of Commerce, under the direction of Commissioner Fuhs, has lost complete perspective on what is appropriate conduct for a government agency.

9. April 8, 1:30 p.m. Commissioner Fuhs distributed another press release, full of even more misinformation. He wrongly accused my client of having a close relationship with Alaskans for Less Gaming and of paying for Alaskans for Less Gaming radio ad. He again lied by stating that I sponsor and fund Alaskans for Less Gaming. Lastly he impugned my client, and wrongly charged that my client "wants to extract a pound of flesh from the charities." See Attachments C and D.

First, my client is in no way affiliated with Alaskans for Less Gaming and in no way should be a subject of a press release concerning Alaskans for Less Gaming. Second, the Commissioner's remarks against

my client are not consistent with his written comments to Chip Thoma. In the attached note, Commissioner Fuhs applauds my client and states they run "one of the cleanest operations" in the gaming industry. In short, Commissioner Fuhs has attempted to reconstruct history and make anyone who opposes some of the provisions in his gaming expansion bill the subject of public lambasting. This is not conduct befitting a public official.

10. April 9, 4:00 p.m. KENI Radio Commissioner Fuhs lied during a radio interview about how the Department of Commerce received the media buy. He stated "when we heard that this ad was coming out, and we wondered who are Alaskans for Less Gaming, we just called up and said, who's placing the ads. We just called the station and they said well, we'll just send you a copy of it." See Attachment E. Commissioner Fuhs' rendition is completely untrue. The truth is he had his assistant, Ms. Mulder take advantage of a personal friend, have that friend steal private property, and then have a facsimile of that private property sent to the Commissioner. Every culprit in this offense, except Commissioner Fuhs, has admitted their wrong-doing.

11. April 14 and 15. Commissioner Fuhs has continued to state that the majority of bars are already selling pull-tabs, and that the gaming bills will not cause any expansion in gaming. ACGA contacted 295 locations in the Municipality of Anchorage that would be able to sell-tabs if SB 76 becomes law to see if Commissioner Fuhs was misrepresenting himself when he said the majority of bars already sell pull-tabs. Of those 295 locations, only 30 currently sell pull-tabs (Just 10%). Commissioner Fuhs was wrong. Gambling potentially could grow one hundred fold. Commissioner Fuhs had neglected to state that SB 76 authorizes the sale of pull-tabs not only in bars, but in restaurants with wine and beer licenses, in liquor stores, in hotels with liquor licenses, and possibly even at sporting events. On April 16, after wide release of ACGA research, the Senate Finance amended the bill to address this concern.

**GREAT NEWS!**

The Lab Called...  
Your Brain  
Is Ready

Chip - this bill  
as structured would  
not take Higgins  
out - they are one of  
the cleanest operators  
so they we don't have  
a problem with  
them.

Fuchs

## "LESS" LOBBYING HARD FOR MORE

The opponents of the CSSB 76 must be getting worried that gaming reform legislation is gaining momentum in the House. The Senate has already moved the bill.

This afternoon's airwaves in Anchorage carried the following announcement paid for by "Alaskans for Less Gaming":

If you're concerned about the future of Alaska's children, please listen to this ad. In the next few days, our State Senate will vote on the bill that would dramatically increase gambling in Alaska. The bill would authorize the sale of pull-tabs in every bar. It would allow a statewide lottery to be run on public radio and t.v. And, worst of all, it would put our children at risk by legalizing gambling not just in bars, but everywhere. In every mall, in every store, and easily within the reach of our children. The impact would be devastating. But, it's not too late and you can help by calling your legislators today and letting them know you oppose Senate Bill 76 . . . that use of alcohol, gambling and children don't mix. Send a free public opinion message by calling your legislative information office today. With so much at stake, let's make sure that our legislators know we're watching and that we cared enough to call.

The "ALASKANS FOR LESS GAMBLING" bought this time. This organization has no prior recognition or standing with APOC, but is clearly engaged in the lobbying efforts to kill pending legislation, specifically CSSB 76.

You might ask "why?". This is a fascinating case of "LESS IS MORE." The company which produced the ad and bought time on at least two Anchorage radio stations is in fact the Higgins Corp, owned by Mark Higgins. This is the same Mark Higgins who has run the political campaigns of several past and currently elected officials. . . . the same Mark Higgins who was paid more than \$65,000 in 1991 to lobby for the Alaska Charitable Gaming Association (ACGA).

The ACGA is a consortium of slot gaming operators, posing as a

association for "political, legal and lobbying" expenses. Coincidentally, the address of the ACGA is the same as Higgins Corp and is upstairs from the Alaska Bingo Management, the largest punch tab distributor and gaming operator in Alaska.

When the LESS phone number was checked, Higgins Corp (Debbie Higgins?) answered. The Higgins Corp voice allowed that they "sponsored" LESS.

Some operators are honorable businesses assisting in the fund-raising for true charities. ALASKANS FOR LESS GAMBLING is a very clear demonstration of charity money gone astray. The dark side is control.

Honest Alaskans who support fund-raising for true charities are at serious risk. This \$204 million industry is trying to protect itself.

This reform legislation must pass.

# PRESS RELEASE

ATTACHMENT C

STATE OF ALASKA

DEPARTMENT OF COMMERCE  
& ECONOMIC DEVELOPMENT

PAUL FUHS  
COMMISSIONER



For Information Contact:

Department of Commerce  
& Economic Development  
P.O. Box 110800  
Juneau, Alaska 99811-0800  
(907) 465-2500

---

Please disregard earlier versions

FOR IMMEDIATE RELEASE

APRIL 8, 1993 1:30 pm

## GAMING INTERESTS SPAWN NEW LOBBYING GROUP

The Anchorage-based "Alaskans for Less Gaming" made its debut on the airwaves in an effort to discourage support for the gaming reform legislation, SB 76.

Anchorage radio listeners were the first to hear a radio ad which has today gone statewide. The Department of Commerce and Economic Development confirmed the close linkage of the "Less" organization with the largest pull-tab and bingo operation association in the state.

The "Less" organization is in fact "sponsored" by Higgins Corp, a campaign, media and public relations firm. Mark Higgins of Higgins Corp, is the chief lobbyist for the Alaska Charitable Gaming Association (ACGA), a consortium of gaming operators. ACGA holds its own gaming permit, and also uses gaming proceeds from its members for political, legal and lobbying expenses.

Higgins' close financial ties to the ACGA are documented in reports to the Alaska Gaming Office. In 1991, Higgins received \$65,000 to lobby for the interests of the gaming industry. Higgins' ties are physical as well; he operates upstairs from Alaska Bingo Management, the largest single pull tab distributor and gaming operator in the state.

Higgins' clients, the opponents of SB 76, must see gaming reform legislation gaining momentum in the Legislature. The radio ad included the following:

. . . In the next few days, our State Senate will vote on the bill that would dramatically increase gambling in Alaska. The bill would authorize the sale of pull-tabs in every bar. It would allow a

- more -

statewide lottery to be run on public radio and TV. And, worst of all, it would put our children at risk by legalizing gambling not just in bars, but everywhere. In every mall, in every store, and easily within the reach of our children. . . . the use of alcohol, gambling and children don't mix . . .

The Gaming Program is part of the Department of Commerce and Economic Development.

Commissioner Paul Fuhs stated, "SB 76 is not an expansion of gaming -- everybody knows we already have pull-tabs in bars. What's really going on here is that the operators don't want the charities going to the vendors and receiving 50% of the net proceeds as required by SB 76.

"They want to force the charities through their operations where they will extract their pound of flesh and the charities will receive only 15% under current law."

"Some operators are honorable businesses assisting in the fund-raising for true charities. Alaskans for Less Gaming is a very clear demonstration of charity money gone astray," said Fuhs. "Honest Alaskans who support fund-raising for true charities need to support this bill. This \$204 million gaming industry is trying to protect itself."

####

OP - ED

Paul Fuhs, Commissioner  
Department of Commerce and  
Economic Development

465-2500

## "LESS" LOBBYING HARD FOR MORE

The opponents of the CSSB 76 must be getting worried that gaming reform legislation is gaining momentum in the House. Yesterday afternoon's airwaves in Anchorage carried the following announcement:

If you're concerned about the future of Alaska's children, please listen to this ad. In the next few days, our State Senate will vote on the bill that would dramatically increase gambling in Alaska. The bill would authorize the sale of pull-tabs in every bar. It would allow a statewide lottery to be run on public radio and t.v. And, worst of all, it would put our children at risk by legalizing gambling not just in bars, but everywhere. In every mall, in every store, and easily within the reach of our children. The impact would be devastating. But, it's not too late and you can help by calling your legislators today and letting them know you oppose Senate Bill 76 . . . that use of alcohol, gambling and children don't mix. Send a free public opinion message by calling your legislative information office today. With so much at stake, let's make sure that our legislators know we're watching and that we cared enough to call.

The "ALASKANS FOR LESS GAMING" bought this time. This organization has no prior recognition or standing with APOC, but is clearly engaged in the lobbying efforts to kill pending legislation, specifically CSSB 76.

You might ask "why?". This is a fascinating case of "LESS IS MORE." The company which produced the ad and bought time on at least two Anchorage radio stations is in fact the Higgins Corp, owned by Mark

ATTACHMENT D

Higgins. This is the same Mark Higgins who has run the political campaigns of several past and currently elected officials. . . . the same Mark Higgins who was paid more than \$65,000 in 1991 to lobby for the Alaska Charitable Gaming Association (ACGA).

The ACGA is a consortium of gaming operators, posing as a "charity", who contribute some of the gaming proceeds to this association for "political, legal and lobbying" expenses. Coincidentally, the address of the ACGA is the same as Higgins Corp and is upstairs from the Alaska Bingo Management, the largest pull-tab distributor and gaming operator in Alaska.

When the LESS phone number was checked, Higgins Corp (Debbie Higgins?) answered. The Higgins Corp voice allowed that they "sponsored" LESS.

Some operators are honorable businesses assisting in the fund-raising for true charities. ALASKANS FOR LESS GAMING is a very clear demonstration of charity money gone astray. The dark side is control.

Honest Alaskans who support fund-raising for true charities are at serious risk. This \$204 million industry is trying to protect itself.

This reform legislation must pass.

DCED 465-2500

4/8/93

ATTACHMENT E

to this. I don't have the ability to answer the question because it would be a breach of my client confidence, and you know that as an attorney.

Fritz - I thought you were acting as a public relations expert here, placing ads, not as an attorney.

Mark - I'm glad you brought that up, because that's another aspect that I want to ask the Commissioner. Uh, the information that you're talking about was illegally obtained by his legislative assistant, who used a friendship with somebody at a radio station to pull a private file and have it faxed to Juneau, so the Commissioner could enter it into the record at a statewide teleconference. And, I would like to ask him if he thinks that's appropriate behavior for a state official to be in on. It was a completely, Fritz you work at a station there, it is a private file. It is not a public file - in, in compliance with the law. And, I would like to know how the Commissioner justifies a state, a top state official at his direction, breaking the law?

Fuhs - Well, I don't know that any law was broken here. It's certainly not illegal for them to give it. They don't have to give it. Uh, when we heard that this ad was coming out, and we wondered who are Alaskans for Less Gaming, we just called up and said uh, who's placing the ads. We just called the station and they said well, we'll send you a copy of it....

Mark - No, no, that is not at all accurate, Commissioner, and you know it. What happened is your assistant called a friend, who she plays softball with, and asked him to go into a private file and pull the property of both myself and the client involved and disclose that publically. Which is an absolute illegal act.

Fritz -  What, what statute are we talking about here, Mark?

Mark - Well, we're talking about general agency law, Fritz, you might check general business agency

law.

Fritz - No, what's the statute. You're talking about a criminal violation, here. Why don't you name the statute?

Mark - Well, you know, Fritz, we can get into that, I don't think that's...

Fritz - No, (ha, ha, ha). You know that if you're going to make accusations against a public official of breaking the law, I think the least thing you can do is tell him what law he's supposed to have broken.

Mark - Well, I think we'll get to that. I have complaint being drafted as we speak. But, but the point here, Fritz, let's not, let me ask him if he thinks that's appropriate behavior. They knew exactly what they were doing. The issue in all of this, is who is this group. The issue is the merits of the debate. The issue and, I am now being personally defamed by a Commissioner of Commerce because I disagree with him on the merits of a partic, particular aspects of legislation. That is a Nazi, Gestapo tactic...

Fritz - (ha, ha, ha)

Mark - I've had enough, I mean.....



## NATIONAL MULTIPLE SCLEROSIS SOCIETY

ALASKA CHAPTER  
511 WEST 4<sup>TH</sup> AVE. SUITE 101

(907) 563-1115 FAX (907) 562-6673  
ANCHORAGE, AK 99503-6643

### FAX SHEET

Number of pages: 1

DATE: 04/22/93

TO: Rep Brian Porter

AT: House of Representatives

FAX # 465-3834

FROM: I. Sk: Olsowski

### MESSAGE

*As you develop your position on the proposed legislation we ask you to keep in mind that for many non-profits, the income received from pull tabs is an essential part of their annual budget. As an example, our chapter receives 48% of its' gross income from the sale of pull tabs. All of the profits are received by the chapter, we utilize no operators and have only volunteers selling pull tabs for us. We make no political contributions, in fact we are prohibited from doing so. However, the proposed cancellation of all pull-tab gaming permits on December 31, 1993 will have dramatic and far-reaching affect on our operations. We would be forced to cut client services and reduce our staff.*

*Our chapter has long been aware of the potential for abuse with sales of pull tabs. We have worked hard to develop a custom software package to track the operations of each of our vendors. We diligently research each applicant who indicates a willingness to sell pull tabs for us. We have developed guidelines for the use of our vendors and we monitor our vendor standings on a monthly basis. In short, we have made every effort to conduct our pull tab operations in a professional manner with adequate safeguards for the vendor, the player, the state and the Society. We have recognized that gaming operations are by their nature labor intensive, and we have dedicated the resources to ensure to the best of our ability that they are run in a business like manner.*

*The reform legislation proposed under HB-168 and SB-76 will not adversely affect our operations, rather they will do a great deal to correct some of the more inequitable operator/permittee contracts that currently exist. We request that the sale of pull-tabs solely by a pull-tab ticket dispensing machine be deleted from the legislation or be made a matter of option. This request is made based on the comments about the equipment in question having a predisposition to malfunction, additionally we wish to save ourselves from the responsibility of obtaining and servicing such equipment. We ask your consideration and support of this amended legislation.*

# FISCAL NOTE

SUSAN

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. LS-SB-76 (En)

Revision Date: 4/16/93  
 Title: AN Act Relating to Unaffiliated  
 Sponsor: SEN DIERCK  
 Requestor: FINANCE

Dept. Affected: D.O.R.  
 BRU: Gaming Division  
 Component: \_\_\_\_\_  
 COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	77,400	77,400	—	—	—	—
TRAVEL	3,000	3,000	—	—	—	—
CONTRACTUAL						
SUPPLIES	500					
EQUIPMENT	8,000					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>86,900</b>	<b>80,400</b>	<b>80,400</b>	—	—	—

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

REVENUE FUND SOURCE:	100,000	100,000	—	—	—	—
----------------------	---------	---------	---	---	---	---

**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	86,900	80,400	80,400	—	—	—
1006 GF/MHTIA						
Other						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact \$ 0

**ANALYSIS:**

(Attach a separate page if necessary)

Personal Services. 1 EA Revenue Auditor IV  
 1 time cost Equipment for Computer, desk etc.  
 REVENUE Increase from Auditing of tax returns.

Prepared by: John Hansen  
 Division: Gaming  
 Approved by Commissioner: [Signature]  
 Agency: \_\_\_\_\_

Phone: 5-2581  
 Date: 4/17/93  
 Date: 4-17-93

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information call the Governor's Legislative Office

April 7, 1993

Dear House Finance Committee Members:

During your recent hearings on HB 168, a gaming reform bill, Speaker Barnes requested Commissioner Paul Fuhs to provide you with a letter from me making clear my position on gaming in Alaska and proposed changes to state law.

Strictly as a moral issue, I do not believe that gambling and gaming are positive influences in society. I believe that the Alaskan people are capable of far greater achievements than profitable gaming and should continue to direct their energies toward other areas. However, realizing that gaming will continue to exist in Alaska for the short term, I believe measures exist and should be taken to improve the current situation.

In this regard, I support increasing the amount of net proceeds going to charities from gaming activities. I support getting gambling and its influences out of government, and I support increased regulation and enforcement for this industry.

Specifically, I support:

1. Increasing the percentage of net-gaming proceeds going to charities to 10 percent on bingo and 30 percent on pull-tabs. This change will prevent bingo losses from being written off against pull-tab revenues and will more than double the amount going to charities.
2. Prohibiting net-gaming proceeds from being used for campaign contributions directly to an individual or through a political party to an individual or to pay for lobbying expenses.
3. Prohibiting convicted felons from obtaining permittee or operator licenses.

*House Finance Committee Members  
April 7, 1993  
Page 2*

- 4. Authorizing charities to contract directly with the vendor rather than going through an operator, if 50 percent of the net proceeds from pull-tabs goes to the charity at the time of delivery.*
- 5. Requiring the department to approve contracts between charities and operators to prevent abuses.*
- 6. Requiring the licensing of out-of-state pull-tab distributors and increasing the standards for pull-tabs to those required by the National American Gaming Regulatory Association.*
- 7. I also support the action of the House Finance Committee in adding \$381,000 to the Department of Revenue budget to provide for more auditing and enforcement of gaming in Alaska.*

*All of these measures will help clean up the gaming industry in Alaska and will ensure that more of the money goes to legitimate charities. I urge you to adopt these measures in the House version of the bill, and move it to the floor for a vote.*

*With best regards.*

*Sincerely,*

*S/S Walter J. Hickel*

*Walter J. Hickel  
Governor*

*bcc: House Speaker Ramona Barnes  
Representative Carl Moses  
Representative Brian Porter  
Senator Steve Frank  
Senator Drue Pearce  
Commissioner Paul Fuhs*

*WJH/WO/DCED/BPM/pw  
Gaming.ltr*

*0864/03  
Gaming letter to legislature*

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

*House Finance Committee Members*

*April 7, 1993*

*Page 2*

- 4. Authorizing charities to contract directly with the vendor rather than going through an operator, if 50 percent of the net proceeds from pull-tabs goes to the charity at the time of delivery.*
- 5. Requiring the department to approve contracts between charities and operators to prevent abuses.*
- 6. Requiring the licensing of out-of-state pull-tab distributors and increasing the standards for pull-tabs to those required by the National American Gaming Regulatory Association.*
- 7. I also support the action of the House Finance Committee in adding \$381,000 to the Department of Revenue budget to provide for more auditing and enforcement of gaming in Alaska.*

*All of these measures will help clean up the gaming industry in Alaska and will ensure that more of the money goes to legitimate charities. I urge you to adopt these measures in the House version of the bill, and move it to the floor for a vote.*

*With best regards.*

*Sincerely,*

*S/S Walter J. Hickel*

*Walter J. Hickel  
Governor*

*bcc: House Speaker Ramona Barnes  
Representative Carl Moses  
Representative Brian Porter  
Senator Steve Frank  
Senator Drue Pearce  
Commissioner Paul Fuhs*

*WJH/WO/DCED/BPM/pw  
Gaming.ltr*

*0864/03  
Gaming letter to legislature*

# *BILL'S of alaska*

April 20, 1993

Representative Ramona Barnes  
Speaker of the House  
Alaska House of Representatives  
State Capital Rm 204  
Juneau, Ak 99801-1182

Dear Representative Barnes

VIA Fax 465-4565

Very soon, SB-76 should make its way from the Senate for House consideration. I urge swift action for PASSAGE of this important bill.

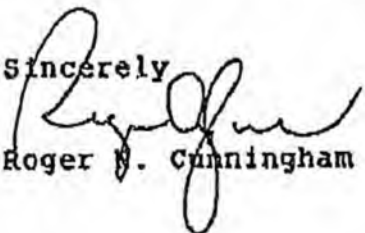
I must hasten to add that not every person who makes a living from charitable gaming is included in the groups who have attempted to scuttle this bill.

Because of other provisions of existing law, the very industry group that opposes this bill is using proceeds from charitable gaming to finance their point of view with a high-paid lobbyist and radio ads. This flies in the face of the intent of Alaska's Charitable Gaming Statutes and must be stopped. SB-76 would stop it.

Nothing in SB-76 is an "expansion" of gaming. It simply legitimizes 3rd party vendors which were made a gray area with the Attorney General's opinion in 1991. This bill would insure that gaming permit holders (non-profits and charities) get their fair share.

Reform of gaming statutes has been tried every session since the infamous "Gaming Reform Act of 1988" without success. Please, make 1993 the session of true, legitimate reform.

Sincerely

  
Roger N. Cunningham

April 9, 1993

Dear Friends,

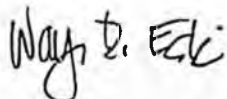
Reference: *New Gaming Regulations for Alaska*  
*HB-168 and SB-76*  
*Commissioner Fuhs Letter of March 31, 1993.*

*As you develop your position on the proposed legislation we ask you to keep in mind that for many non-profits, the income received from pull tabs is an essential part of their annual budget. As an example, our chapter receives 48% of its' gross income from the sale of pull tabs. All of the profits are received by the chapter, we utilize no operators and have only volunteers selling pull tabs for us. We make no political contributions, in fact we are prohibited from doing so. However, the proposed cancellation of all pull-tab gaming permits on December 31, 1993 will have dramatic and far-reaching affect on our operations. We would be forced to cut client services and reduce our staff.*

*Our chapter has long been aware of the potential for abuse with sales of pull tabs. We have worked hard to develop a custom software package to track the operations of each of our vendors. We diligently research each applicant who indicates a willingness to sell pull tabs for us. We have developed guidelines for the use of our vendors and we monitor our vendor standings on a monthly basis. In short, we have made every effort to conduct our pull tab operations in a professional manner with adequate safeguards for the vendor, the player, the state and the Society. We have recognized that gaming operations are by their nature labor intensive, and we have dedicated the resources to ensure to the best of our ability that they are run in a business like manner.*

*The reform legislation proposed under HB-168 and SB-76 will not adversely affect our operations, rather they will do a great deal to correct some of the more inequitable operator/permittee contracts that currently exist. We request that the sale of pull-tabs solely by a pull-tab ticket dispensing machine be deleted from the legislation or be made a matter of option. This request is made based on the comments about the equipment in question having a predisposition to malfunction, additionally we wish to save ourselves from the responsibility of obtaining and servicing such equipment. We ask your consideration and support of this amended legislation.*

Sincerely,



Wayne Eski  
Board of Trustees  
Alaska Chapter National Multiple Sclerosis Society