

**ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672**

**8328 SENATE JUDICIARY**

**HB**

**61**

# FISCAL NOTE

No. 9  
 Bill Version: CSHB 61 (FIN)  
 (H) Publish Date: 2/15/94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

Revision Date: 2/11/94 Dept. Affected: Corrections  
 Title: An Act relating to the offense of BRU: All  
operating a motor vehicle... Component: All  
 Sponsor: Rep. Nordlund  
 Requestor: House Finance COMPONENT SERIAL NO. 694-1884

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	166.6	171.6	176.7	182.0	187.5	193.0
<b>TOTAL OPERATING</b>	<b>166.6</b>	<b>171.6</b>	<b>176.7</b>	<b>182.0</b>	<b>187.5</b>	<b>193.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CHANGE IN REVENUES ( )

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004-GF	33.3	34.3	35.3	36.4	37.5	38.6
1005 GF/Program Receipts	133.3	137.3	141.4	145.6	150.0	154.4
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>166.6</b>	<b>171.6</b>	<b>176.7</b>	<b>182.0</b>	<b>187.5</b>	<b>193.0</b>

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

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: Diane Schenker, Special Assistant Phone: 465-4643/786-2147  
 Division: Office of the Commissioner Date: 2/11/94  
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 2/11/94  
 Agency: Department of Corrections

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The bill lowers the blood alcohol limit for the crime of DWI, from .10 to .08 percent.

Assumptions

1. According to the National Highway Traffic Safety Administration, a study of five other states indicates an average increase in DWI cases of approximately 3.9% as a result of lowering the limit from .10 to .08. On 12/31/93 there were 130 inmates incarcerated for DWI, statewide. A 3.9 percent increase in this population would raise the DWI population by 5.07 inmates, or 1,851 inmate-days per year ( $5.07 \times 365 = 1,851$ ).
2. The cost per day to incarcerate the average DWI case is \$90. The department calculated this cost by using the cost of Community Residential Center (CRC) beds and state correctional beds actually used to incarcerate DWIs last year. Generally, DWI cases are housed in state correctional centers only in unsentenced status or in locations where no CRC is available.
3. A recent change in law requires DWI offenders to pay for some of the costs of incarceration. The department has written regulations to collect these fees, which should go into effect within the next month or so. The regulation will require a first-time DWI offender to pay \$270, and a second-time offender to pay \$1,000. The Department of Law, which is expected to collect the fees, expects to collect approximately 80% of the fees through voluntary compliance and by taking Permanent Fund Dividends. It is expected that the fees will offset costs only for first and second-time offenders.
4. There are currently about 650 DWI offenders on waiting lists to serve their sentences. If the courts were to remand offenders directly to jail to serve their mandatory sentences, instead of allowing many DWI offenders to report to the department for a distant date to serve the sentence, the impact of this legislation would be greater and more immediate. The reason there were only 130 DWI offenders incarcerated on 12/31/94 is that the department was able to control the rate of intake in many cases. Because the statewide waiting list grew to over 2500 offenders and a sentence delay of more than eight months last year, it is possible the courts may cease or lessen the use of this option.
5. The legislation only affects DWIs charged under state statute. DWIs charged under local city ordinances will remain at the .10 level unless the local laws are changed. It is estimated that over half of the DWIs incarcerated in the state correctional system are from Anchorage, charged under city law.
6. Increases in DWI cases may have a "ripple effect" on other crimes, such as Failure to Appear, Failure to Satisfy Judgment, and Driving With License Suspended/Revoked. The department notes that misdemeanants are the fastest-growing incarcerated population. It is

assumed that this factor could double the number of additional inmates referenced in Assumption 1. However, it is assumed that Assumption 5 will offset this, since half the DWI population comes from Anchorage on municipal, rather than state, charges.

7. National studies suggest that this type of legislation may reduce the number of traffic fatalities. This could result in some lessening of prisoner-days served for vehicular homicides. This may help offset the costs not reflected in the fiscal note, for possible increases in remands rather than court-reports, and for third-time or higher offenders who cannot pay the costs of incarceration through fees.

8. The costs of incarceration are reflected under "miscellaneous" because some expenses will be incurred in individual institutions, some in CRC contracts, and some in department overhead for administering contracts and providing support services for institutions.

9. A 3% inflation factor is assumed.

#### Operating Expenses

1,851 inmate-days per year X \$90 per day = \$ 166,590 total expense, FY95

80% (DWI fee collection rate) of \$ 166,590 = \$ 133,272 GF/Program Receipts, FY95

\$166,590 - \$133,272 = \$ 33,318 GF, FY95

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 61 (Jud) am

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to the offense of operating a motor vehicle, aircraft or watercraft while intoxicated..." BRU: Public Defender  
 Component: Public Defender  
 Sponsor: Rep. Nordlund  
 Requestor: (S) Trsp COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	87.9	105.5	105.5	105.5	105.5	105.5
TRAVEL						
CONTRACTUAL						
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	2.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>90.9</b>	<b>106.5</b>	<b>106.5</b>	<b>106.5</b>	<b>106.5</b>	<b>106.5</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	90.9	106.5	106.5	106.5	106.5	106.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>Total</b>	<b>90.9</b>	<b>106.5</b>	<b>106.5</b>	<b>106.5</b>	<b>106.5</b>	<b>106.5</b>

Estimate of current year (FY94) cost: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: John Salemi, Public Defender Phone: 264-4400  
 Division: Public Defender Agency Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Usura Date: 3/7/94  
 Agency: Administration

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## CONTINUATION OF FISCAL NOTE ANALYSIS

For CSHB 61 (Jud) am

CSHB 61 amends the State statutes regarding the crime of driving while under the influence of alcohol. The most significant change in the law proposed through this bill involves the amount of alcohol which a driver can have in his/her system in order to be found guilty of driving while intoxicated. Under present law, a suspected drunk driver who takes a chemical test and is found with 0.10% or more (by weight) of alcohol in his/her blood, is presumed by the court to be under the influence. If found guilty of said offense, mandatory minimum penalties must be imposed.

CSHB 61 lowers the amount of alcohol which must be found in the blood in order for a person to be presumed guilty of driving while intoxicated. This proposal also changes the evidentiary presumptions with respect to this issue. See Section 4, paragraph (a)(4) amending AS 28.35.033.

Significant mandatory penalties attach to a conviction for driving while intoxicated. These punishments will apply to the provisions of this bill.

The Public Defender supports all legislative enactments which reasonably deter driving while under the influence. Other states have lowered the blood alcohol level as is done through this proposal.

### Fiscal Impact

There will be distinct fiscal impact on the Public Defender Agency if this bill becomes law. Under present law, individuals who fall into the .08%-.10% range typically are offered a reduced charge of Reckless Driving in exchange for a plea of no contest. Reckless Driving carries no significant mandatory minimum penalties, does not have the same stigma as a DWI conviction, and in other ways is a more acceptable resolution of a case, from a defendant's perspective, than is a conviction for drunk driving. If this bill passes, it is anticipated that there will be more DWI charges and as a result, more DWI clients wishing to exercise their right to trial. With the attorneys who handle misdemeanors in Anchorage and Fairbanks already carrying caseloads of over 100 cases, it is likely additional resources will be required so that effective legal representation can be provided for these additional DWI prosecutions. It is felt that the fiscal impact can be absorbed through the use of paralegals to assist attorneys in file organization, witness coordination, and other related support work. As such, two paralegal positions are requested; one each for Anchorage and Fairbanks.

### Budget Analysis

#### Anchorage:

Paralegal II	16A	\$51.8
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#### Fairbanks:

Paralegal II	16A	53.7
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100	Personal Services (10 months first year)	\$87.9
200	Travel	0.0
300	Contractual	0.0
400	Supplies	1.0
500	Equipment (one time)	2.0
	TOTAL	\$90.9

Position Title Paralegal Assistant II		No. of Positions 2	Range / Step 16/A	Org. Unit GGU
Time Status PFT	Staff Months 20.0	Location EBA - JBA		Election District 7 - 20
<b>TYPE OF EXPENDITURE</b>		<b>Amount</b>		
Salary	61.9			
Benefits	26.0			
Premium Pay				
Other				
Total Personal Services	87.9			
Travel	0.0			
Contractual	0.0			
Commodities	1.0			
Equipment	2.0			
Other				
Total Cost	90.9			
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	90.9		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
		Justification		
		<p>HB 61 amends the state statutes regarding the crime of driving while under the influence of alcohol. The most significant change in the law proposed through this bill involves the amount of alcohol which a driver can have in their system in order to be found guilty of driving while intoxicated. If this bill passes it is anticipated that there will be more DWI charges and as a result more DWI clients wishing to exercise their right to trial. With the attorneys who handle misdemeanors in Anchorage and Fairbanks already carrying caseloads of over 100 cases, additional resources will be required so that effective legal representation can be provided. The fiscal impact can be absorbed through the use of paralegals to assist attorneys in file organization, witness coordination and other related support work. As such, two paralegal positions are requested; one each for Anchorage and Fairbanks.</p>		

**Request For  
New Position**

AGENCY Department of Administration  
 BRU Public Defender Agency  
 COMPONENT Public Defender Agency

FY 95     

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Revised Date:

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 61 (Fin) am

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: \*An Act relating to the offenses of operating a BRL: Office of Public Advocacy  
motor vehicle . . . . Component: Office of Public Advocacy  
 Sponsor: Rep. Nordlund  
 Requestor: (S) Trsd COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<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 EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

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

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

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

Approved by Commissioner: Nancy Bear Usery Date: 3/7/94  
 Agency: Administration

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FISCAL NOTE

No. 12

Bill Version: CSHB 61 (FIN)

(H) Publish Date: 2/15/94

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Revision Date: December 10, 1993

Title: "...relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated..."

Sponsor: Representative Nordlund

Requestor: Governor's Office

Department Affected: Department of Law

BRU: Prosecution

Component: All

COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

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

CAPITAL						
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REVENUE						
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FUNDING:

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

POSITIONS:

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

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

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

Prepared by: Richard I. Peques, Director

Division: Administrative Services Division

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law

Phone: 465-3672

Date: December 10, 1993

Date: December 10, 1993

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# FISCAL NOTE

No. 10  
 Bill Version: CSHB 61(FIN)  
 (H) Publish Date: 2/15/94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

**BILL**

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: \*An Act relating to the offenses of operating a BFL: Office of Public Advocacy  
motor vehicle Component: Office of Public Advocacy  
 Sponsor: Rep. Nordlund  
 Requestor: (H) Fin COMPONENT SERIAL NO. 43

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

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<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 EXPENDITURES</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>CHANGE IN REVENUES ( )</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>

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of current year (FY94) cost: none

**POSITIONS:**

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

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

Prepared by: Brant McGee, Public Advocate Phone: 274-1684  
 Division: Office of Public Advocacy Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Userra Date: 2/7/94  
 Agency: Administration

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# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

No. 11  
Bill Version: CSHB 61 (FIN)  
(H) Publish Date: 2/15/94

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
Title: An Act relating to the offense of operating BRU: Motor Vehicles  
a motor vehicle...while intoxicated... Component: \_\_\_\_\_  
Sponsor: Rep Nordlund  
Requestor: H. FIN COMPONENT SERIAL NO. 500

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE FUND SOURCE:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 94) impact: \$ None

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)  
Fiscal impact is not anticipated.

Prepared By: Juanita Hensley Phone: 465-4361  
Division: Motor Vehicles Date: 2/4/94  
Approved by Commissioner: *Richard L. Burron* Date: 2/4/94  
Agency: Richard L. Burron, Dept. of Public Safety

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## Mothers Against Drunk Driving

511 E. John Carpenter Frwy., Suite 700 • Irving, Texas 75062-8187 • Telephone (214) 744-MADD • FAX (214) 869-2206/2207  
NATIONAL OFFICE

### RESPONSES TO EDITORIAL COMMENTS FROM CANDY LIGHTNER

MADD is disappointed that Candy Lightner, in her new role as lobbyist for the American Beverage Institute, has chosen the opposite side of the issue on lowering the BAC to .08. MADD's position on this issue is well-founded and MADD is confident that adoption of this measure will help save lives.

Candy Lightner has not been involved with MADD since 1985 and is not a spokesperson for MADD.

MADD did not simply pull the .08 BAC illegal limit out of the air. The decision of the Board of Directors of MADD to advocate .08 as the illegal per se level for drivers over the age of 21 was based on research and studies and the impact of lowering the BAC in reducing alcohol related fatalities.

The evidence is uncontroverted that even experienced drivers' driving skills are impaired at .08 and this would set the level at which the driving skills are proven to be compromised for the vast majority of drivers. (NHTSA)

Research indicates that the risk of crash involvement is 3 times higher for drivers with a BAC level of .08 than it is with a zero BAC and the relative fatality risk for drivers in single vehicle crashes with BACs between .05 and .09 is 11 times greater than for drivers with a zero BAC.

A BAC level of .08 means about four drinks within one hour on an empty stomach for an average male weighing 160 pounds. Unlike Ms. Lightner, MADD does not consider this level of consumption to be "social drinking".

Lowering the BAC level to .08 does not mean that the average individual will be prohibited from stopping and having a drink on the way home from work. However, there is no minimum acceptable safe level and it has been MADD's position since the organization was founded that individuals simply should not drink and drive.

MADD agrees with Ms. Lightner that the high BAC driver and the chronic alcohol abuser represents a dangerous threat to society and that the majority of alcohol related crashes involve offenders with BACs exceeding .08. However, these heavy drinking drivers are not

MADD Statement

the only problem and this does not mean that we can ignore the thousands of victims who are killed or injured by offenders with a BAC lower than the average and in the .08 or below range. It is no consolation to the family of a victim who was killed or injured, that the offender's BAC level was "only" .08 rather than .15.

Ms. Lightner has stated that most of the drivers who are involved in fatal crashes have a high BAC and are repeat offenders. While the majority of these drivers do have a high BAC level, 85% of them have no prior DUI conviction and are not repeat offenders. If we removed every repeat DUI offender from the road today, we would have no impact on 85% of all the highway crashes that are alcohol related.

MADD's approach to stopping impaired driving is to address the problem across the board. We must impact the potential offender, the first offender and the repeat offender. We must look for solutions to deal with the high BAC driver and the lower BAC driver. .08 BAC is just one of the tools that must be used in the war against drunk driving. We cannot exclude any measure that has life saving potential.

There is no simple solution nor single cure-all to stop impaired driving. MADD recognizes that we must continue to examine and advocate for stronger measures to impact the high-BAC driver; we would hope that our lawmakers and the public would recognize the equally important need to address the problem of impaired drivers at all BAC levels. The lives and welfare of the citizens of this country cannot be sacrificed for the profit derived from the sale of one less or one more drink.

Ms. Lightner's decision to become a paid lobbyist for the American Beverage Institute is a personal decision she has made at this point in her life and should not be used to cloud the issues surrounding the efforts of MADD and other highway safety advocates to stop impaired driving and save lives.

TOTAL FATALITIES IN CRASHES WHERE A DRIVER OR A PEDESTRIAN  
HAD A BAC OF .01+ FOR CALIFORNIA

FARS FILES

YEAR	Frequency	Cumulative Frequency
1989	2462	2462
1990	2337	4799
1991	2010	6809
1992	1747	8556

TOTAL FATALITIES IN CRASHES WHERE A DRIVER OR A PEDESTRIAN  
HAD A BAC OF .15-.19 FOR CALIFORNIA

FARS FILES

YEAR	Frequency	Cumulative Frequency
1989	565	565
1990	569	1134
1991	472	1606
1992	413	2019

# Alaska State Legislature

## House of Representatives

JURTH AVE.  
ASKA 99501-2133  
-8191

1 SESSION:  
ATE CAPITOL  
KA 99801-1182  
4968



DISTRICT 11:  
SAND LAKE  
SPENARD  
TAKU-CAMPBELL

Representative Jim Nordlund

### SPONSOR STATEMENT

Bill 61 reduces the legal definition of intoxication for the crime of driving intoxicated from .10% to .08% blood alcohol content. This means it would be for a person to be in control of a motor vehicle, aircraft, or watercraft with a alcohol level of .08% or greater.

ear, as we continued to consider this bill, 5 more states passed .08 laws bringing tal to 10. All of Canada has a .08% blood alcohol threshold, and all European is prohibit driving with a .08% or lower blood alcohol level.

ific evidence persuasively establishes that the risk of a driver being involved erious or fatal crash increases as the alcohol concentration in the body ses. Many studies have shown that measurable impairment to operate a vehicle begins in most drivers at or below .05% blood alcohol level, and that vers are impaired at a blood alcohol level of .08%.

g the allowable blood alcohol level at .08% will greatly increase the probability aining convictions for drunk driving. Because the law will increase the ty of conviction, it will also be more effective than current law in deterring driving and in reducing the number of alcohol related crashes.

ding to the Department of Public Safety, Alaska receives approximately 00 in section 410 Grants of Alcohol Incentive Program from the federal nment. Alaska will be eligible for a 5% increase if House Bill 61 passes. If we reduce the level from .10 to .08 within the next two years, we will become ble to receive any of these funds.

ore important than the fiscal impact of this law is its ability to save lives. A by the state of California showed that traffic fatalities were reduced by 12% he implementation of .08 DWI laws.

December 30, 1993, the Supreme Court ruled in Haynes v. Dept. of Public Safety ue to the margin of error inherent to the Intoximeter 3000 of .01, the actual at which an operator of a motor vehicle should be convicted of drunk driving This shows an even stronger need for .08 legislation.

Since it was introduced, House Bill 61 has received an overwhelming amount of public support. In addition to the support of many individual Alaskans, House Bill 61 is endorsed by:

- American Automobile Association
- General Federation of Women's Clubs
- Association for the Advancement of Automotive Medicine
- International Association of Chiefs of Police
- National Association of Independent Insurers
- National Institute for Alcohol Abuse and Alcoholism
- National Transportation Safety Board
- National Highway Traffic Safety Administration
- Allstate Insurance Company
- State Farm Insurance
- American Medical Association
- American Association of Neurological Surgeons
- American Spinal Injury Association
- National Safety Council
- Mothers Against Drunk Driving (MADD)
- Remove Intoxicated Drivers (RID)
- Insurance Institute for Highway Safety
- National Committee on Uniform Traffic Laws and Ordinances
- National Commission Against Drunk Driving
- Network of Employees for Traffic Safety
- U.S. Surgeon General, Health & Human Services
- Alaska Peace Officer's Association
- Victims for Justice

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WHILE IN SESSION:  
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Alaska State Legislature  
House of Representatives



DISTRICT 11:  
SAND LAKE  
SPENARD  
TAKU-CAMPBELL

Representative Jim Nordlund

SECTIONAL ANALYSIS  
CSHB 61(FIN)am

Section 1. Findings and purpose.

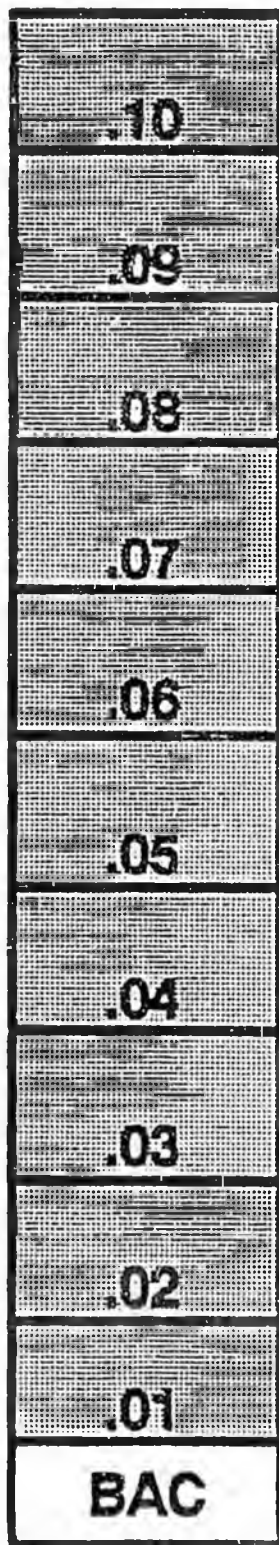
Section 2. Clarifies when a person is intoxicated for purposes of the crime of operating a commercial motor vehicle while intoxicated.

Section 3. Clarifies when a person is intoxicated for purposes of the crime of operating or driving a motor vehicle or operating an aircraft or watercraft while intoxicated. Also changes the legal level of intoxication from .10BAC to .08BAC.

Section 4. Changes the applicable level of intoxication for the purposes of presumptions in criminal and civil proceedings to conform with the new standard.

Section 5. Removes .08 as the standard of liability for alcohol servers.

Section 6. Effective date of September 1, 1994.



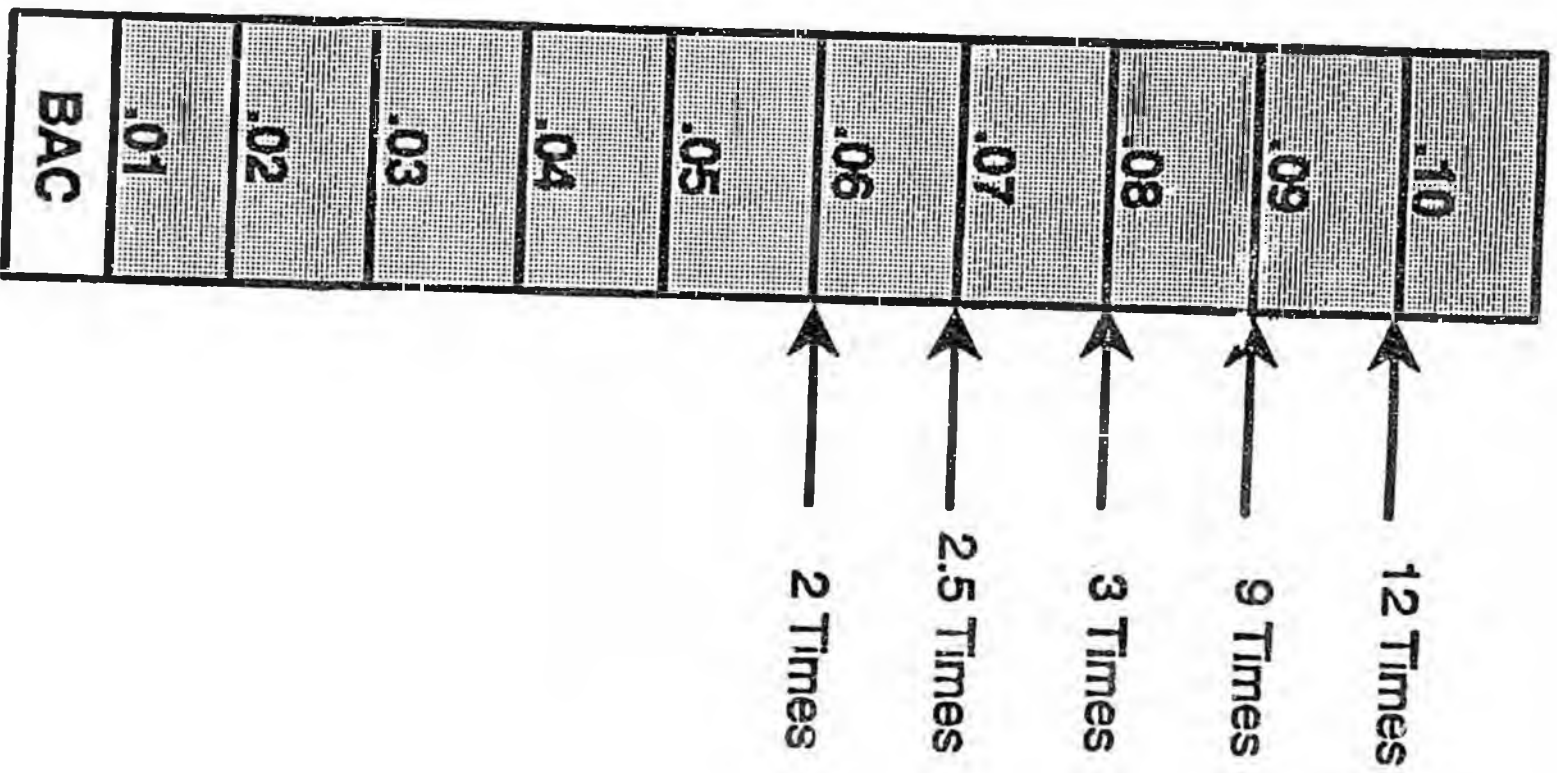
Concentrated Attention, Speed Control, Braking, Steering, Gear Changing, Lane Tracking, Judgment

Tracking, Divided Attention, Coordination, Comprehension, Eye Movement

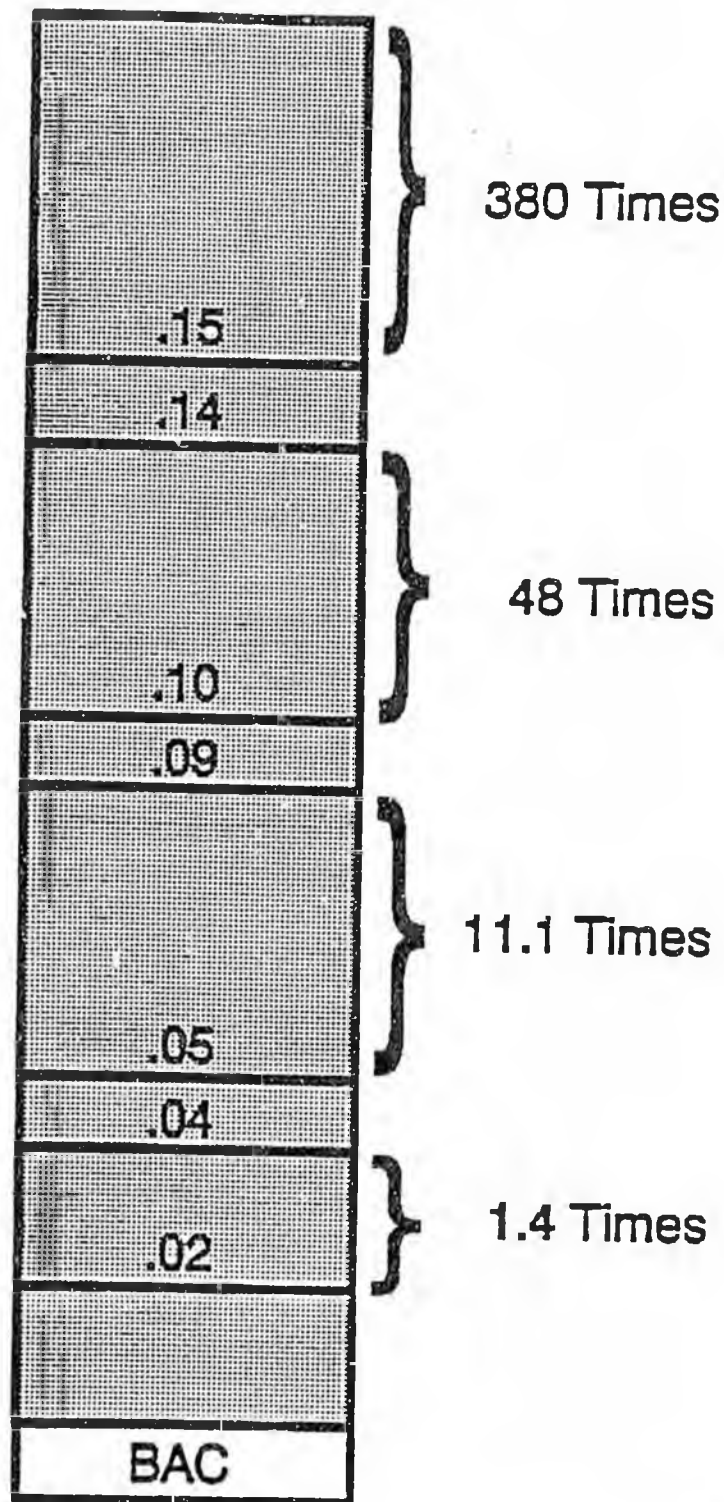
Simple Reaction Time, Emergency Response

Choice Reaction Time

## BAC and Impairment



## BAC and Crash Risk



**Relative Fatality Risk for Drivers in  
Single Vehicle Crashes by BAC  
(Zador, IIHS, 1991)**

3111 C STREET  
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561-7007

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Alaska State Legislature  
House of Representatives



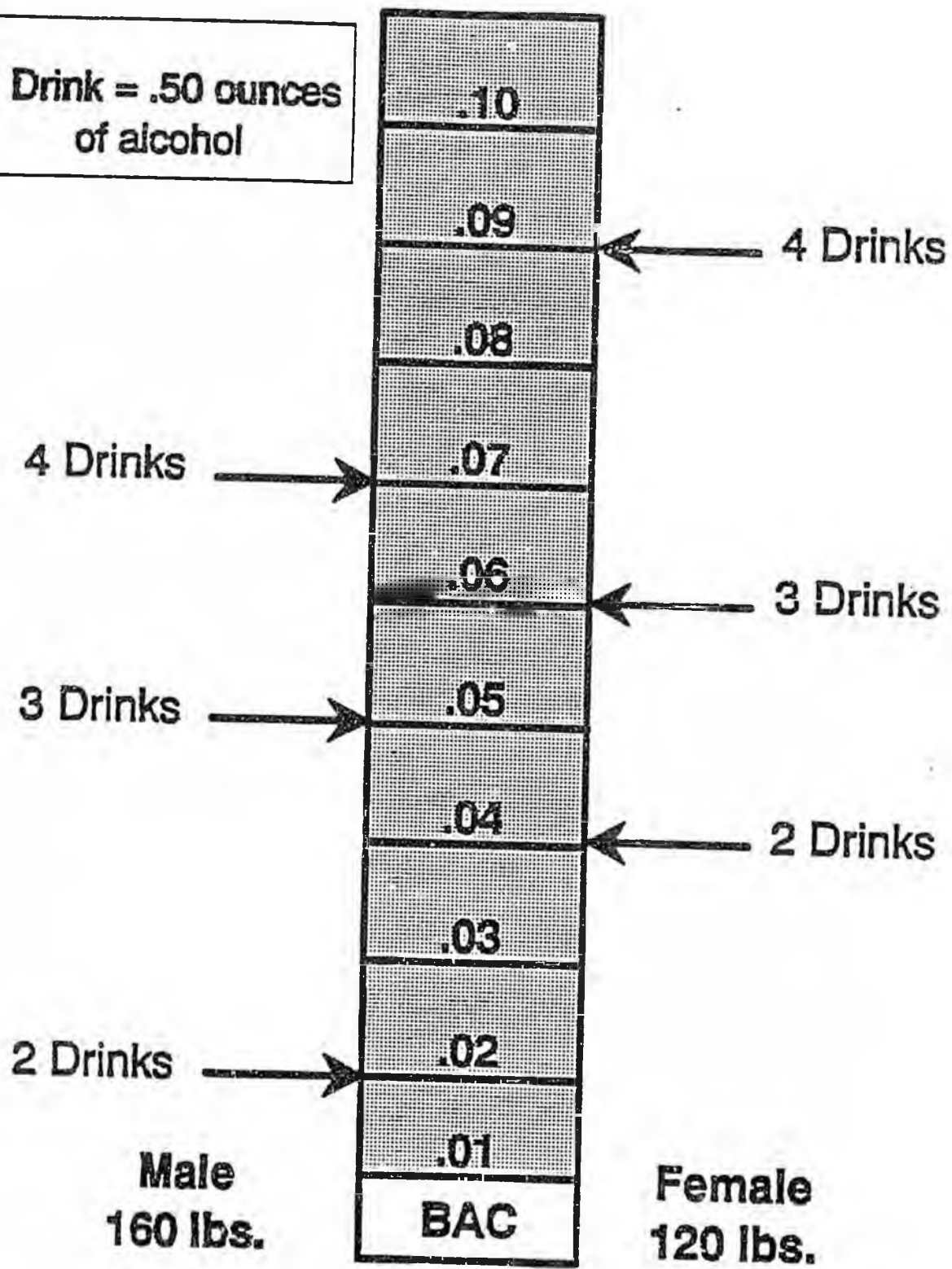
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TAKU-CAMPBELL

Representative Jim Nordlund

	# OF DRINKS TO .10 BAC (1HR PERIOD)	#OF DRINKS TO .08 BAC (1HR PERIOD)
FEMALE 100 LBS.	2	2
FEMALE 140 LBS.	3	3
FEMALE 180 LBS.	4	3
MALE 120 LBS.	3	3
MALE 160 LBS.	5	4
MALE 200 LBS.	6	5
MALE 240 LBS.	7	6

\* Information from the "Controlled Drinking Guide" published by The Alaska Center for Responsible Alcohol Control

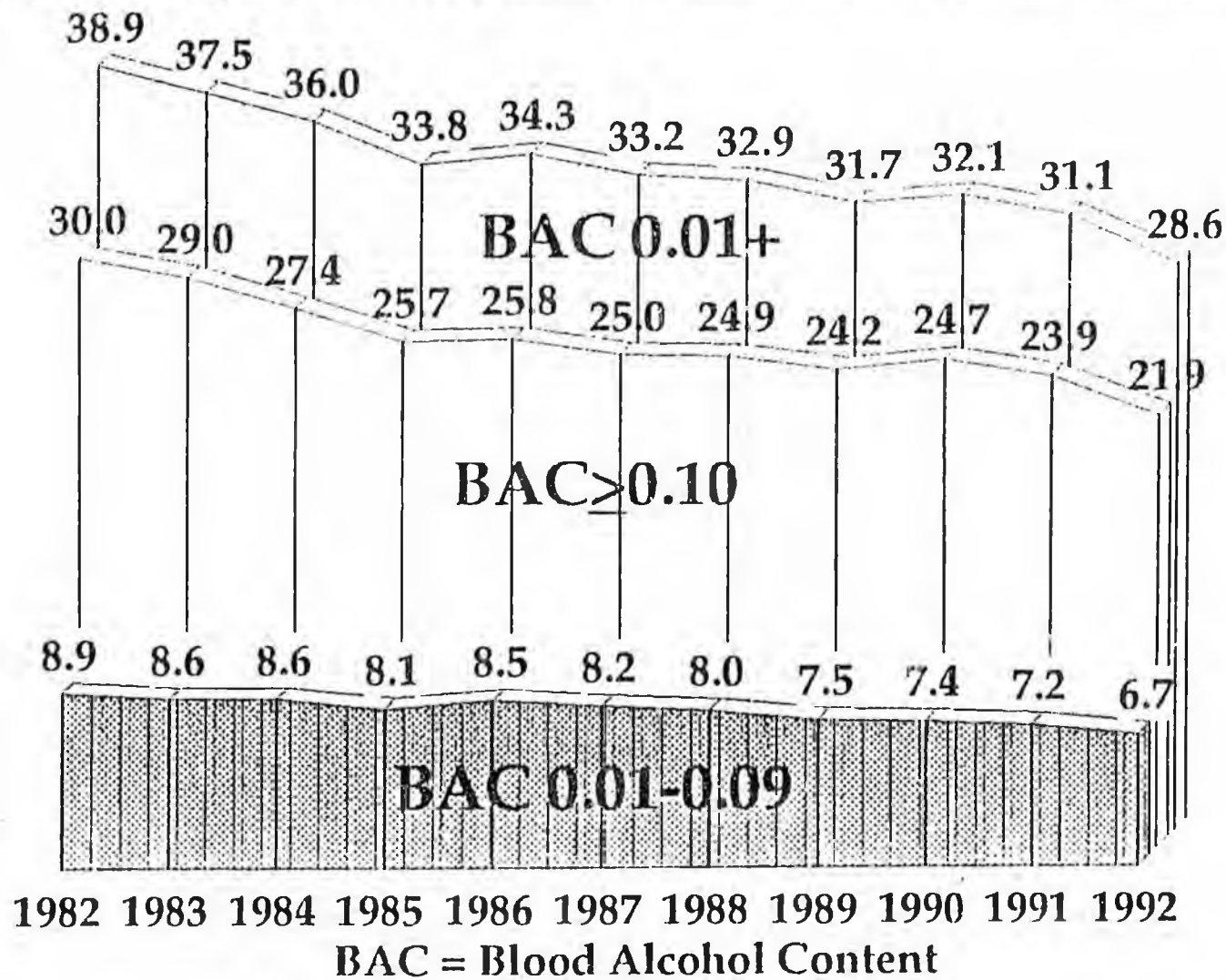
1 Drink = .50 ounces  
of alcohol



**Number of Drinks and BAC in One Hour of Drinking**

# Estimated Proportion of Drivers Involved in Fatal Crashes with Positive Blood Alcohol Concentrations

Percentage of Drivers



## **Effectiveness of .08 Per Se**

- **NHTSA Evaluated Effects of .08 in California**
- **Results:**
  - **81% knew BAC limit was stricter**
  - **Increase in DUI arrests**
  - **12% reduction in A/R fatalities**
  - **Some of effects due to ALR**

## **.08 Per Se**

### ***Will .08 be cost effective?***

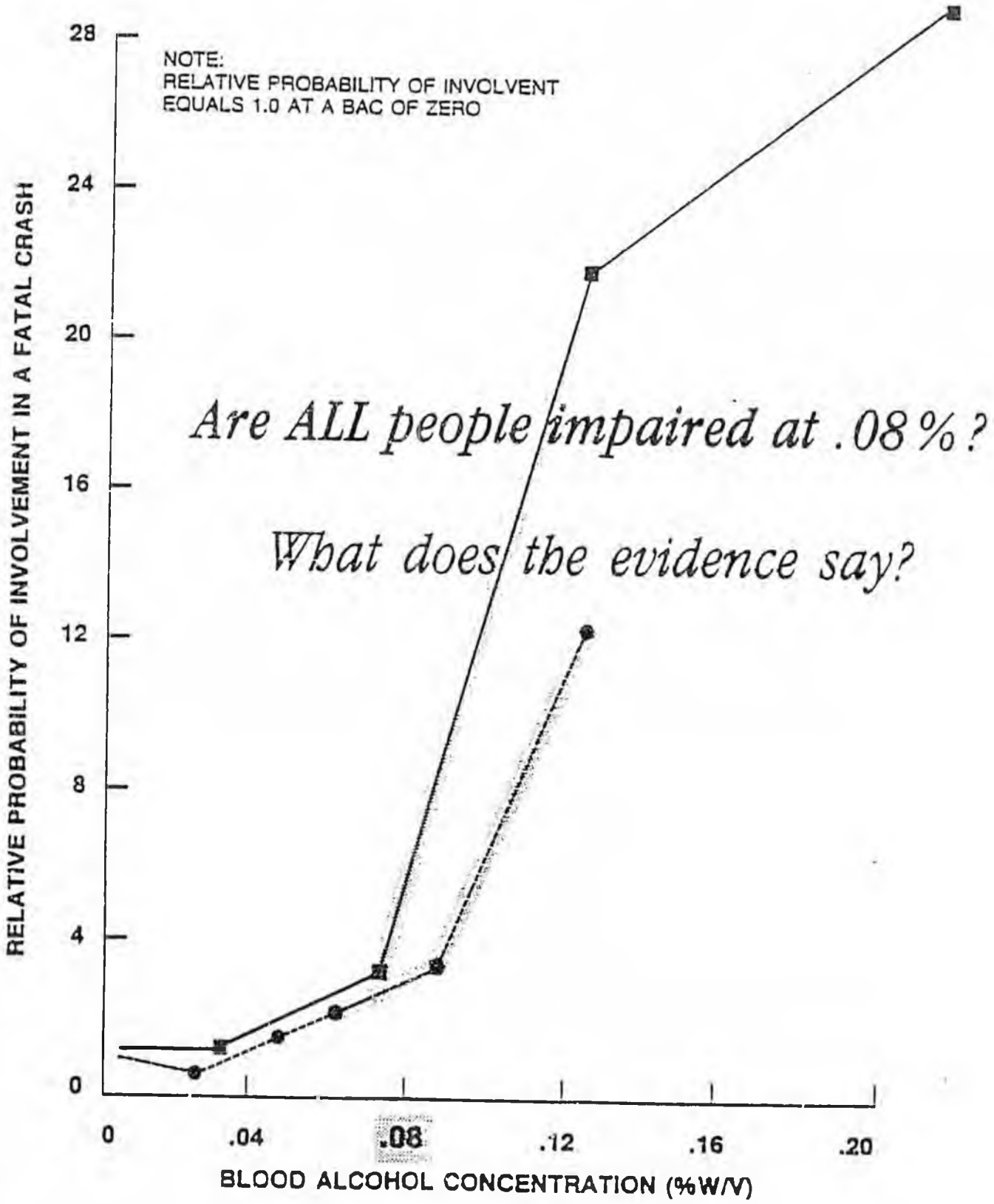
The costs associated with the increased DWI arrests that will occur will be more than offset by **lives saved** due to reductions in alcohol-related fatalities. Eventually, reductions in drinking and driving should also occur and arrests will go back down.

## BAC Limits in Other Countries

<u>Country</u>	<u>Illegal Per Se</u>
Canada	.08
Great Britain	.08
Australia	.05 - .08
Austria	.08
Switzerland	.08
Netherlands	.05
Norway	.05
Finland	.05
Sweden	.02

# Relative Probability of Involvement in Fatal Crashes for Drivers with BACs at Given Levels

*RL*



GRAND RAPIDS, MICHIGAN, 300 FATAL OR SERIOUS CRASHES (Hurst 1974) ■ VERMONT, 106 FATAL CRASHES (Hurst 1974)

COMPLIMENTS OF  
SENATOR BILL LEONARD

**LOWERING BLOOD ALCOHOL LEVELS**

By Jeanne Mejeur

*Drunk driving still kills.*

Alcohol is a major factor in highway fatalities. It is involved in 48 percent of all fatal accidents, according to the Fatal Accident Reporting System (FARS) of the National Highway Traffic Safety Administration. That is a decrease from 57 percent in 1982, but alcohol still accounts for 51 percent of weekend fatalities and 57 percent of nighttime crashes; for accidents occurring during the nighttime on weekends, the figure jumps to an alarming 63 percent.

*Illegal per se laws create an irrebuttable presumption of drunkenness.*

In an effort to reduce drunk driving, nearly every state has established a threshold to determine when a person is legally intoxicated while driving a motor vehicle, through the use of illegal per se (Latin, meaning by itself) laws. These laws make it a crime to operate a vehicle with a blood alcohol content (BAC) above the statutorily established level. Simply put, if a driver is caught with a BAC level above the legal limit, there is an irrebuttable presumption that he or she is drunk.

*Most states established BAC levels of .10.*

BAC measures the ratio of grams of alcohol in blood, breath or urine. When states began enacting illegal per se laws in the early 1980s, most set the BAC level at .10. Over the last several years however, a number of states have reconsidered the effectiveness of the .10 standard in reducing drunk driving, and some have lowered the level for legal intoxication to .08.

Many people exhibit at least some effects of alcohol with a BAC level as low as .04 and everyone is impaired to some extent at a .08 level in motor skills, ability to concentrate, reaction time, vision and judgment. The National Safety Council estimates that a BAC level of .08 is reached by consuming two to four alcoholic beverages.

**State Action**

*Ten states now have .08 levels.*

During the 1993 legislative session, **FLORIDA, KANSAS, NEW HAMPSHIRE, NEW MEXICO and NORTH CAROLINA** changed their laws to reduce the illegal per se level to .08, joining **CALIFORNIA, MAINE, OREGON, UTAH and VERMONT** that had already done so.

The effectiveness of the .08 standard is not easily determined because it is only one of a variety of strategies used by states to curb drunk driving and it is not without controversy. In fatal accidents involving alcohol, only 5 percent of drivers had a level of .08 to .099 while 83 percent had levels of .10 or higher (12 percent were under .08), according to FARS. Activists are divided on whether lowering the level is addressing the real problem.

Lowering the legal level for intoxication does permit law enforcement officers to make more arrests and get more drunk drivers off the streets. It increases public awareness of strict drunk driving enforcement and suggests to people who may be tempted to drive after having consumed alcohol that they are more likely to be stopped for drunk driving.

*Lower BAC levels may increase costs.*

States that enact a lower BAC level as part of their illegal per se law can anticipate increases in the workload of law enforcement agencies, the criminal justice system and state and local corrections, and must consider the additional resources that will be needed to enforce the lower level.

Some states are establishing even lower BAC levels for young drivers, who are considered a high-risk population for drinking and driving. Despite not being legally able to purchase alcohol until age 21, 44 percent of fatally injured drivers aged 15-20 had positive BAC levels, according to FARS. A



# 1992 Traffic Deaths — ALASKA

SUMMARY - 1992 ALASKA TRAFFIC DEATHS

31 December 1993

Factors Contributing To Alaska Traffic Accident Deaths - 1992

FACTOR	DEATHS	PER CENT
Alcohol	46	30.5 %
Unsafe Speed	34	22.5 %
Human Factors, Other	17	11.3 %
Roadway & Environment	15	9.9 %
Driver Inattention	12	8.0 %
Failure To Yield	7	4.6 %
Passenger; Wrong Lane Use	5	3.3 %
Pedestrian Error	5	3.3 %
Traffic Control Ignored	5	3.3 %
Vehicular	5	3.3 %
	151	100 %

SOURCE: Alaska Department Of Transportation And Public Facilities,  
DOT-PF, "1992 Alaska Traffic Accidents"

- Table C.4.1. Page 46 - See reverse side this document
- Table C.5.1. Page 48 - See reverse side this document
- Table C.7.1. Page 52 - See reverse side this document

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# 1992

## ALASKA TRAFFIC ACCIDENTS

SUMMARY - 1992 ALASKA TRAFFIC ACCIDENTS

31 December 1993

NUMBER OF OCCURRENCES - Alaska Traffic Accidents by Frequency  
and Factor Type

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES	PER CENT
Unsafe Speed	3,156	18.6 %
Roadway & Environment	2,990	17.6 %
Human Factors - Other	2,976	17.5 %
Failure to Yield	2,014	12.0 %
Driver Inattention	1,823	10.7 %
Alcohol	1,583	9.3 %
Passing; Wrong Lane Use	767	4.5 %
Improper Turning	668	4.0 %
Following To Closely	630	3.7 %
Vehicular	362	2.1 %
	16,969	100 %

SOURCE: Alaska Department of Transportation And Public Facilities,  
DOT-PF, "1991 Alaska Traffic Accidents"

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**D**

# 1992 ALASKA TRAFFIC ACCIDENTS

Table C.4.1  
Human Factors Contributing to Alaska Traffic Accidents  
by Accident Injury Severity, 1992

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Alcohol, test given	396	288	77	36	797
Alcohol, no test given	114	81	23	4	222
Alcohol suspicion	375	155	28	6	564
Illegal drugs	9	5	5	1	20
Prescription medication	3	2	1	.	6
Lost consciousness	10	11	1	.	22
Fell asleep	46	47	14	4	111
Driver inattention	1,193	571	47	12	1,823
Passenger distraction	29	22	3	.	54
Physical disability	7	5	2	.	14
Illness	9	4	2	.	15
Driver inexperience	259	111	18	4	392
Unsafe backing	474	24	2	.	500
Failure to yield	1,384	571	52	7	2,014
Following too closely	423	200	5	2	630
Passing: wrong lane use	617	119	26	5	767
Passenger error	28	59	19	5	111
Traffic control ignored	361	235	20	5	621
Improper turning	543	108	16	1	668
Unsafe speed	2,174	950	98	34	3,156
Other human factor	826	256	23	5	1,110
ALL HUMAN FACTORS	9,280	3,724	482	131	13,617

Table C.5.1  
Vehicular Factors Contributing to Alaska Traffic Accidents,  
by Accident Injury Severity, 1992

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Defective accelerator	11	3	1	.	15
Defective brakes	59	29	1	2	91
Tire failure: inadequacy	34	23	2	1	60
Steering failure	9	6	.	1	16
Windshield inadequacy	6	.	.	.	6
Defective headlights	3	6	1	.	10
Other lighting defect	24	7	2	.	33
Oversized vehicle	10	3	.	1	14
Defective tow hitch	13	.	.	.	13
Other vehicular factor	67	32	5	.	104
ALL VEHICULAR FACTORS	236	109	12	5	362

Table C.7.1  
Factors Contributing to Alaska Traffic Accidents,  
by Accident Injury Severity and Factor Type, 1992

FACTOR TYPE	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Human	9,280	3,724	482	131	13,617
Roadway	1,589	508	32	8	2,137
Environmental	610	214	22	7	853
Vehicular	236	109	12	5	362
ALL FACTOR TYPES	11,715	4,555	548	151	16,969

# 1991 Traffic Deaths — ALASKA

SUMMARY - 1991 ALASKA TRAFFIC DEATHS

1 October 1992

FACTORS Contributing To Alaska Traffic Accident Deaths - 1991

FACTOR	DEATHS	PER CENT
Alcohol	38	27.3%
Unsafe Speed	26	18.7%
Other Human Factors	16	11.5%
Driver Inattention	15	10.8%
Passing; Wrong Lane Use	11	7.9%
Pedestrian Error	9	6.5%
Failure to Yield	8	5.8%
Traffic Control Ignored	8	5.8%
Roadways & Environmental	4	2.8%
Vehicle	4	2.9%
	139	100 %

SOURCE: Alaska Department of Transportation And Public Facilities,  
DOT-PF, "1991 Alaska Traffic Accidents"

Table C.3.1. Page 41 - See reverse side this document  
Table C.4.1. Page 43 - See reverse side this document  
Table C.5.1. Page 45 - See reverse side this document

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**A**

# 1991 ALASKA TRAFFIC ACCIDENTS

SUMMARY - 1991 ALASKA TRAFFIC ACCIDENTS

1 October 1992

NUMBER OF OCCURRENCES - Alaska Traffic Accidents by Frequency and Factor Type

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES	PER CENT
Unsafe Speed	3,506	19.2%
Roadways & Environmental	3,368	18.5%
Human Factors - not listed	3,002	16.4%
Driver Inattention	2,097	11.5%
Failure to Yield	1,992	10.9%
Alcohol	1,601	8.8%
Passing Wrong Lane	820	4.5%
Improper Turning	695	3.8%
Following To Closely	687	3.8%
Vehicle	473	2.6%
	18,241	100 %

SOURCE: Alaska Department of Transportation And Public Facilities, DOT-PF, "1991 Alaska Traffic Accidents"

Table C.3.1 Page 41 - See reverse side this document

Table C.4.1 Page 43 - See reverse side this document

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**B**

# 1991 ALASKA TRAFFIC ACCIDENTS

Table C.3.1  
Human Factors Contributing to Alaska Traffic Accidents by Accident Injury Severity, 1991

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Alcohol, test given	440	273	71	10	814
Alcohol, no test given	112	72	29	3	215
Alcohol suspected	377	167	23	6	572
Illegal drugs	9	5	2	1	17
Prescription medication	4	3	2	2	11
Lost consciousness	12	8	3	1	23
Fall asleep	53	53	10	2	118
Driver inattention	1,404	618	60	15	2,097
Passenger distraction	40	26	4	1	70
Physical disability	16	2	1	1	19
Illness	11	10	3	1	24
Driver inexperience	260	136	18	1	415
Unsafe backing	420	21	3	1	446
Failure to yield	1,354	581	49	8	1,992
Following too closely	500	179	7	1	687
Passing, wrong lane use	649	136	24	12	820
Pedestrian error	37	31	17	9	94
Traffic control ignored	386	231	28	9	653
Improper turning	548	127	16	4	695
Unsafe speed	2,436	916	128	26	3,506
Other human factor	812	261	34	5	1,112
ALL HUMAN FACTORS	9,880	3,956	533	131	14,400

118  
1601

Table C.4.1  
Vehicular Factors Contributing to Alaska Traffic Accidents, by Accident Injury Severity, 1991

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Defective accelerator	10	3	1	-	14
Defective brakes	71	27	7	2	107
Tire failure, inadequacy	49	17	4	-	70
Steering failure	16	9	1	-	26
Windshield inadequacy	2	1	-	-	3
Defective headlights	3	5	-	1	10
Other lighting defect	33	11	2	-	46
Oversized vehicle	19	3	-	-	22
Defective tow hitch	11	1	1	-	13
Other vehicular factor	118	40	3	1	162
ALL VEHICULAR FACTORS	332	118	19	4	473

Table C.5.1  
Environmental and Roadway Factors Contributing to Alaska Traffic Accidents, by Accident Injury Severity and Factor, 1991

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Animal action	299	78	12	-	389
Glare	36	24	4	-	64
View obstructed; limited	213	102	18	1	334
Other envir. factor	109	24	3	1	137
Bad lane marking	35	11	-	-	46
Construction debris	10	4	-	-	14
Pavement deteriorated	23	7	-	-	30
Pavement slippery	1,611	503	32	2	2,150
Inadequate shoulders	28	4	3	-	35
Sign missing or occluded	3	3	-	-	6
Signal inoperative	5	2	-	-	7
Other roadway factor	120	34	2	-	156
ALL ENVIR. AND ROADWAY	2,492	798	74	4	3,368

ALCOHOL-RELATED CRASHES ~ 1976 thru 1992

Year	FATAL CRASHES				DEATHS				NON-FATAL INJURY CRASHES			
	Total Crashes	Alcohol Related	< Diff >	% Alcohol Related	Total Deaths	Alcohol Related	< Diff >	% Alcohol Related	Total Crashes	Alcohol Related	< Diff >	% Alcohol Related
1976	111	67	44	60.4%	124	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1977	130	64	66	49.2%	136	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1978	112	59	53	52.7%	127	59	68	46.5%	3,263	651	2,612	20.0%
1979	81	45	36	55.6%	91	69	22	75.8%	3,161	663	2,498	21.0%
1980	79	43	36	54.4%	88	64	24	72.7%	3,348	707	2,641	21.1%
1981	90	50	40	55.6%	100	76	24	76.0%	3,852	899	2,953	23.3%
1982	98	54	44	55.1%	107	54	53	50.5%	4,104	897	3,207	21.9%
1983	135	53	82	39.3%	150	64	86	42.7%	4,476	959	3,517	21.4%
1984	123	61	62	49.6%	137	70	67	51.1%	4,743	956	3,787	20.2%
1985	107	58	49	54.2%	127	69	58	54.3%	4,170	779	3,391	18.7%
1986	89	46	43	51.7%	101	50	51	49.5%	3,620	656	2,964	18.1%
1987	70	40	30	57.1%	76	44	32	57.9%	3,318	676	2,642	20.4%
1988	86	43	43	50.0%	97	48	49	49.5%	3,500	634	2,866	18.1%
1989	79	44	35	55.7%	84	46	38	54.8%	3,622	652	2,970	18.0%
1990	92	47	45	51.1%	98	48	50	49.0%	3,775	674	3,101	17.9%
1991	90	45	45	50.0%	101	50	51	49.5%	3,890	678	3,212	17.4%
1992	89	50	39	56.2%	108	61	47	56.5%	3,786	665	3,121	17.6%
Total	1,420	738	682	52.0%	1,592	672	720	54.8%	56,620	11,146	45,472	19.7%

N/A - not available

NOTE: Alcohol injury data from 1978 to 1984 was extrapolated from the hard copy of line charts found in previous HSPs. No supporting data can be found in DOT's accident summaries until 1986.

ALCOHOL-RELATED CRASHES ~ 1976 thru 1992

Year	NON-FATAL INJURIES				PROPERTY DAMAGE CRASHES				ALL TRAFFIC CRASHES			
	Total Injuries	Alcohol Related	< Diff >	% Alcohol Related	Total Crashes	Alcohol Related	< Diff >	% Alcohol Related	Total Crashes	Alcohol Related	< Diff >	% Alcohol Related
1976	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1977	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1978	4,695	986	3,709	21.0%	9,537	909	8,628	9.5%	12,912	1,619	11,293	12.5%
1979	4,560	994	3,566	21.8%	10,277	929	9,348	9.0%	13,519	1,637	11,882	12.1%
1980	4,992	1093	3,899	21.9%	9,735	1,043	8,692	10.7%	13,162	1,793	11,369	13.6%
1981	5,783	1394	4,389	24.1%	10,158	1,156	9,002	11.4%	14,100	2,105	11,995	14.9%
1982	6,047	1367	4,680	22.6%	12,541	1,241	11,300	9.9%	16,743	2,192	14,551	13.1%
1983	6,705	1468	5,237	21.9%	13,509	1,275	12,234	9.4%	18,120	2,287	15,833	12.6%
1984	6,852	1062	5,790	15.5%	14,499	1,338	13,161	9.2%	19,365	2,355	17,010	12.2%
1985	6,038	900	5,130	15.0%	13,423	1,052	12,371	7.8%	17,700	1,889	15,811	10.7%
1986	5,424	741	4,683	13.7%	11,149	790	10,359	7.1%	14,858	1,492	13,366	10.0%
1987	4,981	799	4,185	16.0%	9,902	733	9,169	7.4%	13,290	1,449	11,841	10.9%
1988	5,215	702	4,513	13.5%	9,714	724	8,990	7.5%	13,300	1,401	11,899	10.5%
1989	5,550	752	4,798	13.5%	10,663	790	9,873	7.4%	14,364	1,486	12,878	10.3%
1990	5,859	792	5,067	13.5%	12,423	917	11,506	7.4%	16,290	1,638	14,652	10.1%
1991	5,669	743	4,926	13.1%	11,910	1,013	10,897	8.5%	15,890	1,736	14,154	10.9%
1992	5,561	661	4,900	11.9%	11,726	923	10,803	7.9%	15,601	1,638	13,963	10.5%
Total	83,934	14,462	69,472	17.2%	171,166	14,833	156,333	8.7%	229,214	26,717	202,497	11.7%



U.S. Department  
of Transportation  
National Highway  
Traffic Safety  
Administration

Post-It™ brand transmittal memo 7671 # of pages 118

To: LORN CAMPBELL	From: NEILL RAYMOND
Co: AHTSPA	Co: NHTSA
Dept:	Phone # 206 553 5934
Fax # 407.463.5860	Fax #

### Alcohol-Related Deaths Three-Year Averages

State	Before .08	After .08	Difference
California	2,591 (87-89)	2,215 (90-91)*	376 less fatalities/yr. A 14.5% decrease
Utah	138 (80-82)	114 (84-86)	24 less fatalities/yr. A 17.4% decrease
Oregon	316 (80-82)	270 (84-86)	46 less fatalities/yr. A 14.5% decrease
Maine	111 (85-87)	70 (89-91)	41 less fatalities/yr. A 37% decrease
<b>Total 4 States</b>	<b>3,156</b>	<b>2,669</b>	<b>487 less fatalities/yr. A 15.4% decrease</b>

\*California fatalities are 2-year average of 1990-1991; 1992 data not complete as of 3/93.

### Drunk Driving Arrests Three-Year Averages

State	Before .08	After .08	Difference
California (CHP only)	135,260 (87-89)	140,716 (90-92)	+5,456 arrests/yr. A 4% increase.
Utah	9,400 (80-82)	13,700 (84-86)	+4,300 arrests/yr. A 45% increase.
Oregon	29,369 (80-82)	24,743 (84-86)	-4,626 arrests/yr. A 16% decrease.
Maine	9,693 (85-87)	11,827 (89-91)	+2,134 arrests/yr. A 22% increase.
<b>Total 4 States</b>	<b>183,722</b>	<b>190,985</b>	<b>+7,263 arrests/yr. A 3.9% increase.</b>



AUTO SAFETY HOTLINE  
800 424-6333  
Wash. D.C. Area 300-0123

DWI REVOCATION STATISTICS

Year 1992

LOCATION	POLICE DEPARTMENTS		TROOPERS		TOTAL
	Refusals	Took Test	Refusals	Took Test	
Anchorage	246	1,343	37	276	1,902
Fairbanks	62	219	60	329	670
Juneau	35	217	0	16	268
Soldotna	18	69	34	87	208
Ketchikan	35	139	17	106	297
Homer	17	61	6	57	141
Sitka	22	131	0	1	154
Palmer	9	35	85	493	622
Kenai	22	100	0	0	122
Cordova	3	22	0	4	29
Valdez	11	53	0	1	65
Kodiak	13	98	4	18	133
Seward	20	77	0	13	110
Nome	7	20	0	0	27
North Pole	6	55	0	0	61
Haines	3	15	0	0	18
Barrow	36	84	0	0	120
Craig	9	45	0	1	55
Wrangell	8	19	0	0	27
Petersburg	7	17	0	0	24
Military	2	16	0	0	18
Bethel	39	92	0	0	131
Dillingham	11	38	0	0	49
FBKS Air Pol	0	22	0	0	22
ANCH Air Pol	2	3	0	0	5
Other	40	153	11	96	300
<b>TOTAL</b>	<b>683</b>	<b>3,143</b>	<b>254</b>	<b>1,498</b>	<b>5,578</b>

BREATH TEST RESULTS:

.10 to .149		1,259
.15 to .199		1,708
.20 to .249		1,141
.25 to .299		416
.30 to .349		101
.35 and up		16



## 1993BAC.XLS

1993 REVOCATION STATISTICS BAC DESK						
LOCATIONS	POLICE DEPARTMENTS		TROOPERS			
	REFUSALS	TOOK TEST	REFUSALS	TOOK TEST	TOTAL	
ANCHORAGE	229	1347	52	281	1909	
FAIRBANKS	90	274	45	249	658	
JUNEAU	48	230		7	285	
SOLDOTNA	16	88	28	60	192	
WASILLA	21	104			125	
KETCHIKAN	36	134	11	79	260	
HOMER	13	64	10	27	114	
SITKA	24	97			121	
PALMER	16	69	92	481	658	
KENAI	27	126			153	
CORDOVA	5	18			23	
VALDEZ	5	29			34	
KODIAK	24	96	4	21	145	
SEWARD	23	114	1	2	140	
NOME	6	33		1	40	
NORTH POLE	13	64			77	
HAINES	3	8		1	12	
BARROW	33	60			93	
CRAIG	4	53	1		58	
WRANGELL	7	20			27	
PETERSBURG	12	19		1	32	
MILITARY POLICE		9			9	
BETHEL	37	77			114	
DILLINGHAM	6	11			17	
AIRPORT POLICE	3	6			9	
OTHER	46	156	2	2	206	
TOTAL	747	3306	246	1212	5511	
BREATH TEST RESULTS %						
.10 TO .149	1226	-				
.15 TO .199	1749					
.20 TO .249	1060					
.25 TO .299	371					
.30 TO .349	95					
.35 AND UP	17					

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

Richard L. Burton  
Commissioner  
P.O. BOX 11200  
JUNEAU ALASKA 99811-1200  
PHONE: 907) 465-4322  
FAX: 907) 465-4362

March 7, 1994

Representative Jim Nordlund  
House Task Force on Alcohol and Alcohol Abuse  
Room 426  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Nordlund:

In 1992, 89 traffic crashes on Alaska roadways resulted in the deaths of 108 people. Included in this total are 13 pedestrians, 7 motorcyclists, 8 ATV/snowmachine riders and 80 vehicle drivers.

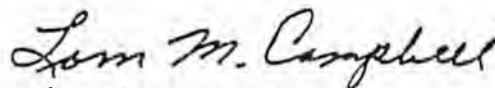
The major contributors to fatal traffic crashes were alcohol, speeding, and driver inattention, in that order. Sixty-three of these people died in 51 alcohol or drug-related crashes. The number of pedestrian fatalities was 13, with the rate of alcohol involvement being 84.6 percent compared to 52.6 percent in all other types of fatalities. A far higher average of alcohol involvement then found in the rest of the Nation.

In reviewing the recently released House Task Force Report on Alcohol and Alcohol Abuse, we at the Highway Safety Planning Agency would like to thank the Task Force for their many hours of work in compiling the information to make that report possible. It is our consensus that this report clearly identified the magnitude of the alcohol problem in Alaska and also went on to identify how State dollars can best be expended to meet the challenge of reducing injury and fatalities of our States most valuable resource, it's people.

On behalf of Commissioner Burton and the Department of Public Safety, we applaud the Task Force on their work and look forward to working with them in a concerted effort to make their recommendations a reality.

Again, "Thank You" to you and all the members for a job well done.

Sincerely,



Lorn M. Campbell  
Administrator  
Highway Safety Planning Agency

cc: Richard Burton, Commissioner

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

P.O. BOX 111200  
JUNEAU, ALASKA 99811-1200  
PHONE: (907) 465-4322  
FAX: (907) 465-4362

January 7, 1994

The Honorable Jim Nordlund  
Alaska State Legislature  
Court Building, Room 608  
Juneau, AK 99801-1182

Dear Representative Nordlund:

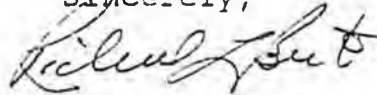
I am writing in response to your correspondence requesting support from the Department of Public Safety for House Bill 61. HB 61 is one of the pieces of legislation the Department of Public Safety has placed as a priority. One of the recommendations the department made when testifying at the Alcohol Task Force hearings was to enact legislation setting the under-the-influence driving per se levels at .08 percent or lower.

Junita Hensley from my staff has been following this piece of legislation and will continue to work with you and your staff, as well as the members of the various committees, as it makes its way through the Legislature.

Laws that will enhance the safety of driving on our roadways and especially those laws which will help reduce the number of alcohol-related accidents and fatalities are always a priority for this department.

You can be assured the department will continue to support HB 61. My staff and I look forward to working with you in the upcoming legislative session.

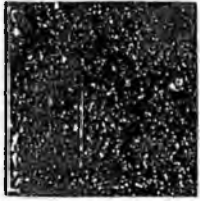
Sincerely,



Richard L. Burton  
Commissioner

cc: Lee Ann Lucas  
Special Asst., DPS

Nita Hensley  
Chief of Driver Svcs, DMV



# ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

March 30, 1993

Representative Jim Nordland  
House of Representatives  
State Capitol  
Interdepartmental Mail Stop: 3100  
Juneau, AK 99801-1182

Dear Representative Nordland:

Thank you for sponsoring House Bill 61. This bill would lower the legal limit of alcohol to 0.08 per cent for operating motor vehicles. This bill has strong support in the medical community, and we will assist you in any way we can to help with its passage. If the medical association can be of any assistance on this bill, do not hesitate to contact us.

Sincerely yours,

Donald R. Lehmann, M.D., A.B.F.P.  
Chairman, Legislative Affairs Committee  
Alaska State Medical Association

DRL:bj



**Public Safety Employees Association, Inc.**

*"Representing Alaska's Finest"*

1569 S. Bragaw #201, Anchorage, AK 99508

(907) 337-1979

Fax (907) 337-1753



**International Union of  
Police Associations  
Local 92 AFL-CIO**

February 17, 1993

Representative Jim Nordlund  
State Capital  
Juneau, AK 99801-1182

Dear Representative Nordlund,

I would like to commend you on your sponsorship on HB61. This legislation is long overdue and I wish you success in your endeavor to further the safety and welfare of the citizens of Alaska.

As President of the Public Safety Employee's Association, I represent law enforcement officers working throughout the State of Alaska. We fully endorse this proposed legislation. It would not only assist law enforcement officers with their responsibilities, but would take another step towards getting Alaska's most dangerous and lethal drivers off the roads.

It is readily apparent that the current regulations do not go far enough. At a .08 alcohol level drivers are extremely dangerous. Their vision is impaired, their reactions are slowed and they are more inclined to take risks. A .10 limit is just too high. We as citizens of the State of Alaska need this legislation. Our lives may depend on it. If there is any assistance our Association can provide in seeing HB61 prevail, don't hesitate to call. Good luck and thank you for your hard work.

Sincerely,

Keith Perrin  
President

RECEIVED

FEB 22 1993

Ans'd.....

Representative Richard Foster  
Chairman, Transportation Committee  
State Capitol  
Juneau, Alaska

February 25, 1993

Dear Representative Foster,

I support HB 61, lowering the BAC to .08 as the legal limit to drive as a short-term control over a much more fundamental problem- the public attitudes toward alcohol use and abuse. It is one piece of a larger plan which looks at reducing injuries and deaths from motor vehicle crashes. Alcohol increases the odds that a crash will occur and increases the severity of injury when it does occur. In Alaska, the most severe injuries occur among young drivers between 16-24 years old who have been drinking. The demand for state services to pick up the pieces from these injuries is astounding. If this deters even one person from taking that fifth drink, it saves the state thousands of dollars.

The most evidence supporting the lowered BAC limit, rests with the effect on adolescent involvement in alcohol-related fatal crashes. Though this legislation targets all drivers, the effect on youth may be most effective. In a 1991 study done in Anchorage Emergency Rooms, the leading cause of injury and death for adolescents from 14-19 years old was motor vehicle crashes. Though impaired driving occurs with any alcohol content in the body, this legislation lowers the limit of how much alcohol the community will accept. It recognizes the magnitude of the problem and sends a message that Alaskans need to sober up for the privilege of driving a motor vehicle.

Joan Diamond  
Department of Health and Human Services  
Community Health Education/Injury Prevention  
Anchorage, Alaska

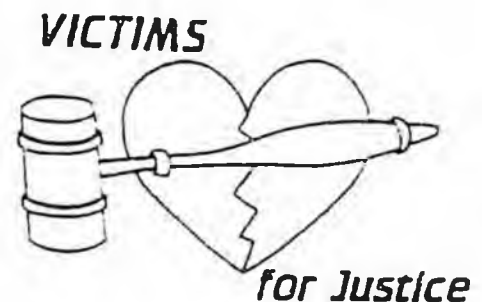
Post-It™ brand fax transmittal memo 7871		# of pages ▶
To <i>Mr. Norland</i>	From <i>Joan Diamond</i>	
Co. <i>Alta Dennis</i>	Co. <i>NOA</i>	
Dept.	Phone # <i>943-4603</i>	
Fax # <i>465-2108</i>	Fax # <i>258-6329</i>	



**POSITION STATEMENT  
FROM THE COALITION OF**

**THE ALASKA PEACE OFFICER'S ASSOCIATION  
and MOTHERS AGAINST DRUNK DRIVERS**

before the  
19th Alaska Legislature  
March 1993



SB 32/HB 61  
LOWERING THE PRESUMPTIVE LEVEL TO .08%

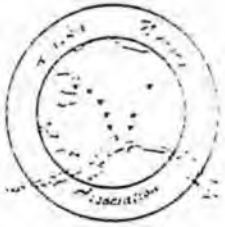
Drinking and driving under the influence of drugs or alcohol continues to be a matter of grave concern to the citizens of Alaska. Behavior and attitudes toward the drinking driver have changed remarkably in the last decade. Drinking and driving is no longer as socially acceptable as it once was. People have come to understand and realize the high price we pay for such excesses. As attitudes change in recognition of the problem, so should our laws.

The trend nationally has been to lower the presumptive level in Driving While Intoxicated cases from .10% to .08%. Studies show that drivers with this lower level of alcohol in their blood are significantly impaired. Drivers with this level of impairment are responsible for a large percentage of motor vehicle accidents causing untold damage to property and human life.

We believe that there is a relationship between a lower limit of blood alcohol content and the reduction of the alcohol related accidents. The passage of this bill will assist law enforcement in removing the impaired driver off the roadways, and the citizens of Alaska will be better protected.

Besides lowering the presumptive level of intoxication from .10% to .08%, we encourage the legislature to change the Implied Consent Law to require motorists to submit to a test of any combination of blood, breath, or urine tests, with the type of test to be administered left to the discretion of the arresting officer. Presently, the only test required is a breath test which is incapable of determining drug intoxication.

Further, we propose rescinding the statutory language that became effective in 1991 which allows people who refuse to take a breath test and people who are DWI re-offenders to have a limited license. This language makes Alaska ineligible for Federal 410 Funds (approximately \$400,000 annually). Another requirement of 410 Funds is that the state adopt the .08% presumptive intoxication level within 4 or 5 years of the receipt of the funds. Unless the legislature changes the language mentioned above, the State of Alaska will continue to be ineligible for federal funds.



# ALASKA NURSES ASSOCIATION

237 E. 3rd Avenue #3 Anchorage, AK 99501-2523  
(907) 274-6827 FAX: (907) 272-0292

February 14, 1994

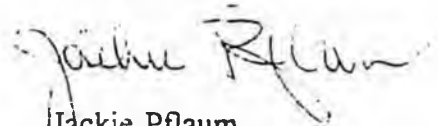
Representative Jim Nordlund  
Judiciary Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Room 608-Ct  
Juneau, Alaska 99801-1182

Dear Representative Nordlund:

On behalf of the Alaska Nurses Association, the Legislative Committee would like to endorse HB 61. We understand that this bill proposes to impose a more restrictive legal limit on alcohol consumption above which the person will lose the privilege to drive.

Research has demonstrated that there is a significant correlation between the establishment of a lower blood alcohol and the subsequent reduction of alcohol related injuries and fatalities. Given the significant economic and human consequences of drunk driving in this state, we applaud your efforts to establish these tougher limits. If we can be of any additional assistance, please let us know.

Sincerely yours,

  
Jackie Pflaum  
Legislative Chair



## National Transportation Safety Board

Washington, D.C. 20594

December 23, 1993

Office of the Chairman

Honorable Jim Nordlund  
Alaska House of Representatives  
716 W. Fourth Avenue, #240  
Anchorage, Alaska 99501-2133

Dear Representative Nordlund:

This is in response to your recent letter to former Safety Board Chairman James Kolstad, regarding your legislation to reduce the blood alcohol concentration (BAC) from 0.10 percent to 0.08 percent that is now pending before the Finance Committee. I would like to share with you the conclusions of the National Transportation Safety Board based on its research and accident investigation experience.

There is considerable research that demonstrates measurable adverse effects of alcohol on performance, even at low BACs. An October, 1992 report to Congress by the National Highway Traffic Safety Administration concluded:

The scientific literature clearly documents the detrimental effects of alcohol on driver performance. There is no threshold for alcohol impairment, i.e. there is no lower level at which impairment starts, or below which no impairment is found . . . . Safety considerations and scientific evidence will support lowering the acceptable level to whatever the legislature chooses, down to any measurable BAC.

This finding has been supported by studies completed as early as 1950 which documented that the impairment threshold of a drivers' ability to drive occurs at concentrations of 0.035 to 0.040 percent. Many other, more recent, studies have confirmed this finding, and have documented impairing effects at lower concentrations.

The 1977 study by H. Laurell, "Effects of Small Doses of Alcohol on Driver Performance in Emergency Traffic Situations," found effects on driver performance at BACs below 0.05 percent, studied in two contexts: (1) in a critical car-driving situation involving emergency braking and evasive maneuvers, and (2) in a "surprise" situation that followed the first situation and involved the sudden appearance of a human-shaped obstacle blocking the roadway. Overall, detrimental effects of alcohol at an average BAC as low as 0.042 percent were found.

Other studies substantiate performance impairment at very low BACs. For example, in an article published in 1970, "Alcohol Disturbance of Visual Acuity for Moving Objects," H. Honneger stated that the ability to distinguish close, but separated, moving objects seems to be consistently impaired at BACs sometimes as low as 0.03 percent. C. E. Billings and R. L.

Honorable Jim Nordlund

Page 2

Wicks, in a report prepared for the FAA ("Effects of Alcohol on Pilot Performance during Instrument Flight." FAA-AM-72-4), stated that the ability to divide attention between tasks can be impaired at very low BACs (0.02 percent). Earlier (1964) findings by O. Gruner *et. al.*, also concluded that very low BACs impair the ability to divide attention between tasks. Further studies (H. Franks *et. al.*, "The Relationship Between Alcohol Dosage and Performance Decrement in Humans," Journal of Studies on Alcohol, 1976) indicate that the ability to stand upright without swaying begins to decrease significantly at a BAC as low as 0.04 percent.

The American Medical Association and the National Safety Council's Committee on Tests for Intoxication, have developed a table that places the effects of a BAC of 0.03 percent in the "euphoria" range. The behavioral symptoms of this level of intoxication include increased self-confidence, decreased inhibitions, loss of efficiency in finer performance tests, and diminution of attention, judgment, and control. These symptoms were expressly characterized as not compatible with the safe operation of motor vehicles.

Further, a 1985 study by Dr. Herbert Moskowitz shows evidence of impairment on divided attention and information processing tasks beginning at a BAC as low as 0.015 percent. At a 1987 international conference, Dr. Moskowitz reported on an exhaustive review of research on low BAC effects he conducted for the National Highway Traffic Safety Administration. Based on this review, Dr. Moskowitz states that "there is no lower threshold level below which impairment does not exist for alcohol."

A 1964 Indiana University study entitled, "The Role of the Drinking Driver in Traffic Accidents" by R. F. Borkenstein, determined that the relative probability of being involved in an accident is about 4 times greater than normal at 0.08 BAC, and about 25 times greater than normal at 0.15 BAC.

Additional research completed in late 1987 by the National Academy of Sciences provided further information on the effects of low levels of alcohol. In enacting the Commercial Motor Vehicle Safety Act of 1986, the Congress asked the Academy to study the effect of various alcohol level on the performance of truck drivers. The Academy's Transportation Research Board brought together a group of nationally recognized experts on the effects of alcohol, who concluded that "performance of driving related tasks decreases at any BAC above zero and crash risk increases sharply as BAC rises." The National Academy of Sciences recommended, and Federal Highway Administration regulations established, 0.04 BAC as the level at which commercial drivers would have an illegal alcohol level. Any alcohol ingestion can result in the commercial driver being put out of service for 24 hours.

Honorable Jim Nordlund  
page 3

In 1989 the Safety Board recommended that the U.S. Department of Transportation:

Issue rules specifying zero (no alcohol) as the blood alcohol concentration for private sector employees in safety sensitive positions for all transportation modes and for Federal employees in safety sensitive positions.

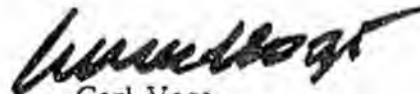
The Board also has recommended State legislation specifying BAC's below 0.04 percent for both commercial vehicle operators and for pilots of general aviation aircraft.

Similarly, Federal regulations prohibit aircraft crews from ingesting alcohol in the eight hours prior to flight operations and they may not have an alcohol level of 0.04 percent or above. The Safety Board has recommended that the alcohol level for air crews be the lowest level that can be reliably measured.

When combined with the impairing effects of other potential stressors found in highway operations such as complex traffic response demands, fatigue, vibration and noise, the presence of alcohol even at very low blood alcohol concentrations must be considered a clear and definite risk to safe highway operations. Therefore, legislation to lower the BAC definition of intoxication to 0.08 percent would certainly be a most modest positive step.

I hope that this information is useful to you and your colleagues. Please let us know if there is any way the Safety Board can be of additional assistance.

Sincerely,



Carl Vogt  
Chairman

cc: Representative Ron Larson  
Co-Chair, House Finance Committee

**HB**

**64**



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA D. TOOHEY

DISTRICT 13

State Capitol  
Juneau, AK 99801-1182

### SPONSOR STATEMENT

#### HOUSE BILL 64

Reports across the country of victims being stalked by estranged boyfriends, husbands, acquaintances, or strangers has motivated states to take action against the perpetrators of such offenses. Stalking affects not only the victim, but often other members of the victim's household.

The stalking law was birthed in California. in 1990. The year before, actress, Rebecca Schaeffer, had been murdered by a fan who stalked her. Early in 1990 five Orange County women were murdered. In each case, the victim had been stalked and threatened and had a temporary restraining order against her assailant. One victim asked police, "What does he have to do--shoot me?" A few days later that is just what happened.

Alaska is not free of stalkers. A Homer woman was stalked by her ex-husband and it resulted in her friend being murdered by him. In Anchorage, a woman was stalked and eventually shot to death in her office by a former boyfriend. The stalker often knows the victim and, in the majority of cases, the estranged husband or boyfriend is the stalker.

HB64 creates the crimes of stalking in the first and second degree. In the first degree, it is a class C felony and in the second degree, a class A misdemeanor. A peace officer has the authority to arrest without a warrant. Like cases of domestic violence, stalking defendants are given conditions regarding their release before trial.

HB64 is modelled after the Michigan law which was passed in December 1992 and considered one of the toughest in the nation. Over 31 states now have stalking laws.

HB64 passed the House unanimously.

SPONSOR STATEMENT

**BILL NO:** CSHB 64(FIN)

**DATE:** March 19, 1993

**TITLE:** "An Act creating the crimes of stalking. . ."

**CONTACT:** C.E. Swackhammer  
Deputy Commissioner  
465-4322

Section one of this legislation amends AS 11.41. Offenses Against the Person by adding a new section 11.41.260 Stalking in the First Degree. A person commits Stalking in the First Degree if the person violates Stalking in the Second Degree (new section AS 11.41.270) and 1) the action is in violation of the domestic violence order, or 2) the action is in violation of probation, release before trial, release after conviction or parole, or 3) the victim is under sixteen (16) years of age, or 4) the defendant at any time while committing the offense is in possession of a deadly weapon, or 5) the defendant has been previously convicted of a similar crime of stalking or violation of a domestic violence order, or 6) the defendant has been previously been convicted of the following crimes wherein the victim in the offense of stalking was the victim: murder in any degree, assault in any degree, kidnapping in any degree, sexual abuse, indecent exposure, terroristic threatening, or harassment.

Stalking in the First Degree is a class C felony.

Stalking in the Second Degree is committed when a person "recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member."

Stalking in the second degree is class A misdemeanor. A family member is defined as:

- (A) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt, nephew or niece of the victim, whether related by blood, marriage, or adoption;
- (B) a person who lives or has previously lived in a spousal relationship; or
- (C) a person who lives in the same household, or
- (D) a former spouse of the victim or is or has been in a dating, courtship, or engagement relationship with the victim.

Stalking in the second degree includes the definition of "nonconsensual contact" and lists seven activities which would apply.

"Victim" means a person who is the target of a course of conduct.

Section Two of this legislation amends AS 11.41.220, Assault in the Third Degree, paragraph (a)(2), to include "placing another person in fear of death or serious physical injury to the person or person's family member [by making] repeated threats to cause death or serious physical injury to another person."

Section three amends AS 11.41.220 by adding the same definition of "family member" as is found in A-D, above.

Section four amends AS 11.56.810, Terroristic Threatening, paragraph (a) by moving language from this statute to AS 11.41.220 described in Section two, above.

Section five amends AS 12.25.030, Grounds for Arrest by Private Person or Peace Officer Without Warrant, to add AS 11.41.270 (Stalking in the Second Degree) to the crimes for which an officer may arrest without a warrant.

Section six amends AS 12.30.025, Release Before Trial in Cases Involving Domestic Violence, to include stalking and addresses prohibitions which include provisions against stalking the victim prior to trial.

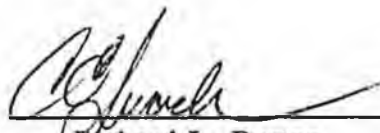
Section seven amends AS 12.55.085, Suspending Imposition of Sentence, paragraph (f) by adding Stalking in the First or Second degree to crimes for which a court may not suspend the imposition of sentence.

Section eight provides that the commission of Stalking I or II apply only to offenses committed after this legislation is passed, but that convictions as an element of Stalking I can have occurred prior to this legislation becoming law.

Section nine provides for the act to take effect immediately.

This legislation is a needed addition to the statutes which involve domestic violence as well as those less frequent situations where a fixation on the part of a individual creates fear and a possibly dangerous situation on the part of the victim.

The Department of Public Safety supports CSHB 64(FIN)



Richard L. Burton  
Commissioner

Bill No. CSHB 64 (Fin)

Date: March 19, 1993  
Contact: Joanne F. Lopez  
465-4356

Title: " An Act creating the crimes of stalking..... "

CSHB 64 (Fin) provides added protection for victims of domestic violence and sexual assault from violent pursuers who stalk the victim and thereby place them in fear of death or serious physical injury. The Council on Domestic Violence and Sexual Assault supports the concept of a bill that would create the crime of stalking, and provide police with the ability to make arrests based on probable cause.

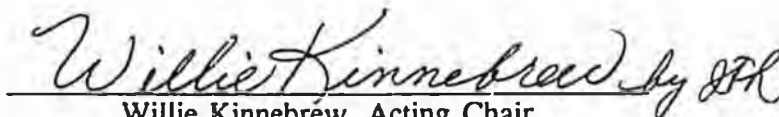
Violent, harassing and threatening behaviors toward innocent citizens have always been a serious problem particularly for victims of domestic violence and sexual abuse. While laws such as protective restraining orders exist to protect victims from violent pursuers, law enforcement officers may not intervene until such orders have been violated. By then, it is usually too late to prevent the offenders from harming or even killing those whom such orders were designed to protect.

Each year an estimated six million women are beaten by the men they live with. A third of the women who are murdered each year are killed by husbands or boyfriends. National statistics show that 30% of all female homicide victims were stalked prior to their murders. Leaving a bad relationship is often the most dangerous time for women. A national study reports that 75% of domestic assaults occur after the couple separate. More women are killed when the relationship breaks up than at any other time. A few stalkers fixate on co-workers or complete strangers, and not all victims are female, but the vast majority of cases involve former lovers or spouses.

CSHB 64 (Fin) covers gaps that restraining orders cannot. It gives more leverage against people who ignore restraining orders. If the offender is arrested and convicted for a felony crime they would be more likely to be subject to parole supervision after release.

California passed the nation's first "stalking law" in 1990, a year after five Orange County women were murdered in separate incidents despite temporary restraining orders against the assailants who were stalking them, their husbands or boyfriends. The bill had impetus from cases involving Hollywood celebrities who were stalked by obsessed fans. But California also uses its stalking law for domestic violence cases, and 27 other states have followed suit.

The Council on Domestic Violence & Sexual Assault supports passage of CSHB 64 (Fin).



Willie Kinnebrew, Acting Chair  
Council on Domestic Violence  
and Sexual Assault

## SECTIONAL ANALYSIS OF CSHB64 (FIN)

Section 1 of the bill creates the crimes of stalking in the first and second degrees. Stalking in the first degree is a class C felony and stalking in the second degree is a class A misdemeanor.

Section 2 of the bill amends AS 11.41.220(a) adds intent to place another person in fear of death or serious physical injury by making repeated threats to cause death or serious physical injury to another person as another form of assault in the third degree. This language was taken from AS 11.56.810(a) (See Section 3 of the bill.) and was moved as this conduct is basically an assault type of offense and is more properly placed in AS 11.41 as a crime against a person.

Section 3 of the bill amends AS 11.41.220 by adding a definition of "the person's family member."

Section 4 of the bill amends AS 11.56.810(a) removes intent to place another person in fear of death or serious physical injury by making repeated threats to cause death or serious physical injury to another person

Section 5 of the bill amends AS 12.25.030(b) to provide a peace officer with the authority to arrest without a warrant a person the peace officer has reasonable cause to believe has committed stalking in the second degree.

Section 6 of the bill amends AS 12.30.025 to extend the provisions of that section that relate to conditions of release before trial in cases involving domestic violence to stalking cases.

Section 7 of the bill amends AS 12.55.085(f) by extending the provisions of that subsection, that prohibit the suspension of imposition of sentence, to stalking cases.

Section 8 of the bill is an applicability section regarding Sections 1 and 2 of the bill and the effective date.

Section 9 of the bill provides for an immediate effective date.



NATIONAL CONFERENCE OF STATE LEGISLATURES

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EXECUTIVE DIRECTOR

"STALKING" LEGISLATION UPDATE

December 18, 1992  
Donna Hunzeker

Thirty states have "stalking" laws as of this writing. California passed the first law in 1990, creating (and coining) "stalking" as a crime. States known to have added similar laws this year are: Alabama, Colorado, Connecticut, Delaware, Florida, Hawaii, Kansas, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

New Jersey and Pennsylvania considered, but did not pass, stalking measures in 1992. A number of states, Arkansas, Indiana and Texas among them, are preparing stalking legislation to be introduced next year.

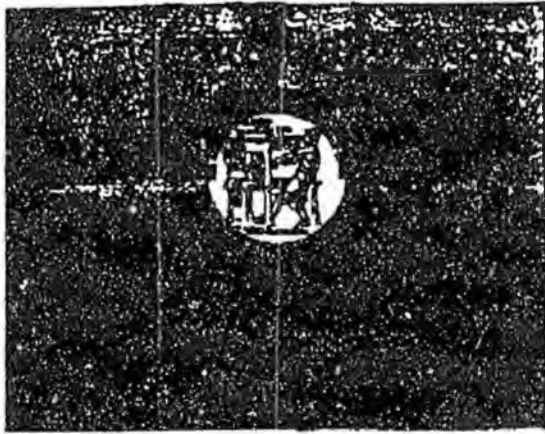
In other states, laws called something other than "stalking" have similar intent and purpose. For example, "terrorizing" in Maine is either a Class D crime or Class C crime when threats of violence are made. Since 1987, Minnesota has had "trespass" and "harassment" laws to apply to stalking situations that include "intent to harass, abuse or threaten." Multiple acts of harassment are punishable through enhanced penalties, and in the 1992 omnibus crime bill, Minnesota increased penalties for repeat offenses. Minnesota law also has felony penalties for "terroristic threats" which can apply to stalking situations. Arizona created misdemeanor classifications of harassment this year.

States typically have defined "stalking" as willful, malicious, and repeated following and harassing of another person. Most stalking laws require that the perpetrator make a "credible threat of violence" against the victim, and in many states, credible threat includes threats against the immediate family of the victim. Many provisions require that the victim have "reasonable fear of death or great bodily injury." Stalking laws generally apply to cases where women allegedly are terrorized by former boyfriends or husbands. Cases where women (or men) are stalked by casual acquaintances or even strangers have brought about some state laws and are applicable under most stalking laws. Statute language in most states broadly provides that the victim could be any person or circumstance in which following, threats and intimidation are present.

Many states have both misdemeanor and felony classifications of stalking, with up to one year of jail typical for first offenses. Tougher penalties (up to three, five and even six years) often apply to second or subsequent stalking offenses. Enhanced penalties also apply in many states where a stalker violates a protective order.

California amended its original stalking law this year, redefining "credible threat" of harm to include threats against immediate family, and increasing penalties for second or subsequent stalking convictions. The new law also allows restraining orders for up to 10 years.

*For more information, please contact NCSL Marketing/Book Order Department at 303-830-2200 for "Stalking Laws" State Legislative Report.*



## Domestic violence

### *Alaska should look at stalker laws*

Anyone familiar with domestic violence knows that leaving a relationship can be a risky act. One national study says that three-quarters of domestic assaults occur after the couple separated. More women are killed when leaving than at any other time.

We don't need statistics to understand this fact. Here in Anchorage over the last year, one woman was murdered by her ex-boyfriend when she went back to their apartment to pick up her belongings. Another barely escaped with her life after the man she'd broken up with stalked her with a bomb.

The law does what it can to safeguard women in these dangerous circumstances. Women can request restraining orders, and most of the time — but not always — their boyfriends or husbands obey a court order to stay away. The community also provides shelters for women who so fear their ex-partners they need a place to hide.

But when these measures don't work, we end up asking ourselves, is there more we can do?

Nineteen other states have answered, yes. They have passed stalker laws.

These originated in California, partly in response to a disturbed fan's stalking and murdering a Hollywood star. But California also uses its stalking law for domestic violence cases, and other states have started to follow suit.

The stalking law applies to anyone who follows or harasses another person and threatens violence. Stalking is considered a felony rather than a misdemeanor if the behavior is repeated, or if a restraining order already has been issued.

Stalking laws cover gaps that restraining orders don't fill. For example, say a man has never abused his ex-wife, and even keeps his distance from her. But he tells her that he'll kill her when she least suspects it, and every day she sees him waiting in the parking lot where she works. He could be arrested for stalking her.

California's stalking law also gives the state more leverage against people who ignore restraining orders. Say a woman gets a restraining order and her ex-partner continues to follow her. Under a stalking law, such behavior would be a felony, and the man, if convicted, would be more likely to serve jail time and would be subject to parole supervision afterwards.

The Alaska Network on Domestic Violence and Sexual Assault is looking into California's and other states' laws to see if a stalking law would be useful here. No one pretends it would guarantee safety. A person obsessed with revenge and indifferent to authority can still elude arrest or get out on bail. He will not stop being a danger.

But a stalking law could be one more tool to control this needless violence.

# Murderous Obsession

Can new laws deter spurned lovers and fans from 'stalking'—or worse?

**B**arbara Erjavec and Grace Beach sometimes take a rug to the cemetery and have lunch by the graves of their children, sharing a sad litany of what ifs. What if they had known that Kenneth Kopecky had talked openly about his plans to kill the young lovers? What if the law now awaiting the Illinois governor's signature had been in place—could the police have done something then? Grace and Barbara will never know the answers. All they do know is that Kopecky became infatuated with Karen Erjavec last summer when they were both members of a wedding party, and that for the next six months Karen and her boyfriend, Glenn Beach, lived in fear. They received anonymous letters and bizarre, threatening phone calls. Glenn's car was vandalized, and there were tire tracks across the lawn of the house where he lived with his parents. Karen's father, a policeman, knew that the law was powerless against what seemed like just a persistent creep. Even the surveillance lights Glenn's parents installed around their home had no effect last Feb. 16. The Beaches returned from a movie that night to a bustling crime scene in their driveway. Glenn had been shot six times in the back and stabbed twice; Karen had been shot in the head at close range. Two days later, police tracked Ken Kopecky to a motel in Michigan. He shot himself to death as the cops moved in.

The stories sound like the plot lines of hit movies, from "Fatal Attraction" to "Sleeping With the Enemy" to "Cape Fear." But increasingly, state legislators are hearing real-life versions, and they are responding with astonishing speed. California passed the first "anti-stalking" law in 1990, making it a crime to repeatedly follow or harass someone with a "credible threat" to cause fear of bodily harm. Since then, 20 more states have enacted similar laws, and at least a dozen others are considering them. Most make the first stalking offense a misdemeanor, punishable by up to one year in jail and a \$1,000 fine, with felony counts and stiffer penalties for repeat offenses. Florida's law, which went into effect last week, even allows police to make arrests without obtaining a warrant.

Behind almost every state bill has been at least one local tragedy. Wisconsin lawmakers acted after Shirley Lowery was fa-



tally stabbed 19 times, allegedly by her ex-boyfriend in a Milwaukee courthouse where she had gone to obtain a protective order. Virginia lawmakers were moved after Regina Butkowiak's mother testified that her daughter had been stalked for six months by a weight lifter who finally shot her, set her body on fire and dumped it into a creek, where it was found eight months later. Georgia's proposed law may pick up more support after the sad case of Joyce Durden, whose estranged husband carried out his repeated death threats last month. He gunned her down at a school where she taught mentally disabled preschoolers, then shot himself in the head.

*Love gone mad: A battered wife living in fear in Tampa, grieving mothers Beach (left) and Erjavec*

Such horrifying examples aside, no one can say how widespread a problem stalking is—mainly because it has never been a crime category before. The new laws aim at halting a pattern of threats and harassment that often precedes violent acts, from assault to rape, child molestation and murder. Some of the most publicized cases have involved celebrities, like actress Rebecca Schaeffer, fatally shot by an obsessed fan, Robert John Bardo, in 1989. A few stalkers

fixate on co-workers or complete strangers, and not all victims are female; women sometimes stalk men. But the vast majority of cases involve former lovers or spouses. Nearly one third of all women killed in America are murdered by their husbands or boyfriends, and, says Ruth Micklem, codirector of Virginians Against Domestic Violence, as many as 90 percent of them have been stalked.

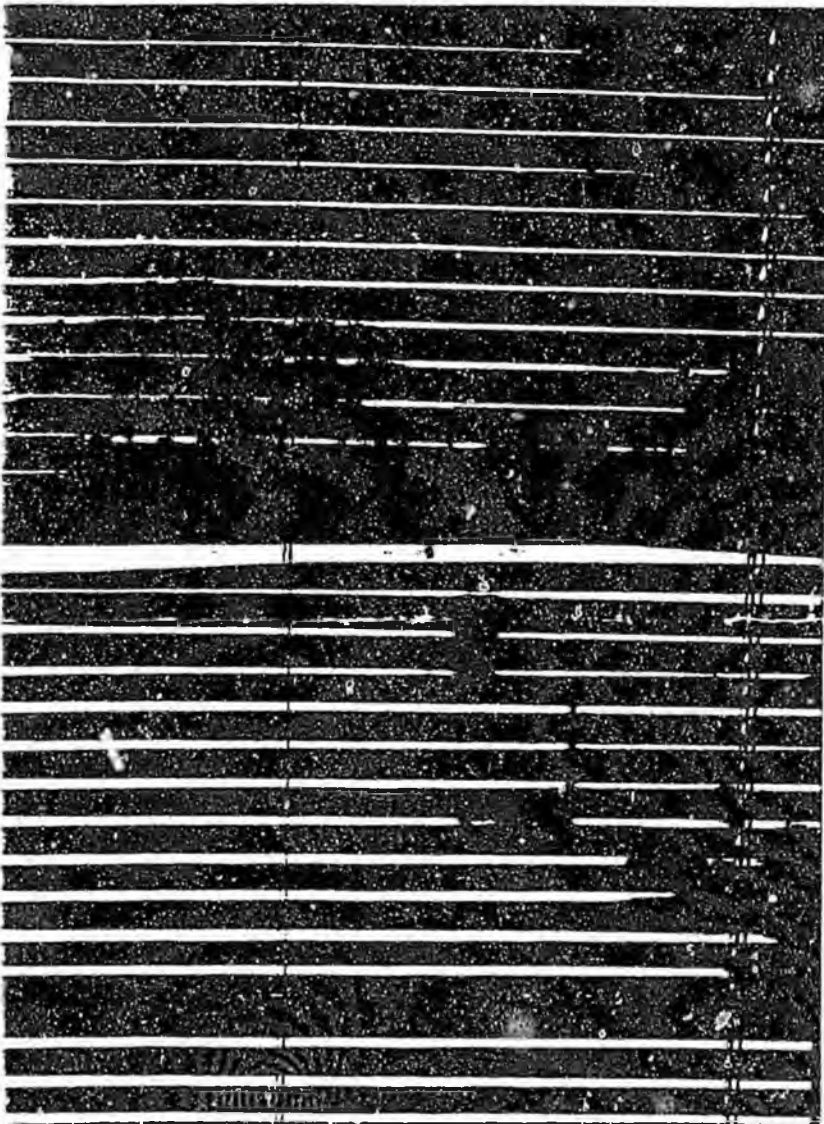
Some civil-liberties experts argue that the new laws are overly vague and carry a potential for misuse, particularly in marital disputes. "There are very often false allegations made in all sorts of contexts against spouses or former spouses," says Miami criminal-defense attorney Jeffrey Weiner, who thinks Florida's no-warrant provision may be unconstitutional. Critics also say that people who fear for their safe-

Will the laws actually deter such crimes? Much depends on what twisted logic motivates the stalker. "A lot of these people are just caught up in the emotion of a bad breakup," says David Beatty of the National Victim Center in Arlington, Va. "Sitting someone down in jail for a while may make him rethink his actions." But some stalkers are mentally deranged. Stanton Samenow, a Virginia clinical psychologist and author of "Inside the Criminal Mind," says that many have disturbed self-images in which they see themselves as irresistible or complete zeros. When they are rejected, they resort to intimidation in a desperate attempt to try to regain self-esteem. The threat of prison may deter some of them, but for others, says Samenow, "it's like putting fuel on a fire."

For the anti-stalking laws to have a real impact, courts must take them seriously and apply the new legal muscle they provide. Ironically, the first person sentenced under California's law, Mark David Bleakley, was put on probation and ordered to serve time in a psychiatric facility. Unsupervised, he wandered away and was found waiting outside his victim's health club. Fortunately, he was reapprehended before he could harm her and sentenced to three years in prison.

**'Won't hunt':** Kristin Lardner wasn't so lucky. The 21-year-old Brookline, Mass., art student was murdered by her former boyfriend in May, just two weeks after the state's anti-stalking law went into effect. Michael Cartier had already served six months in jail and was on probation for attacking another ex-girlfriend. He was attending a violence-treatment program when he began beat-

ing Lardner. She reported the incidents to the police, who issued a warrant for his arrest. She also obtained two restraining orders from civil-court judges, but they were unaware of the outstanding warrant and merely barred Cartier from going within 200 feet of her. That didn't faze him. On May 30, Cartier waited outside the liquor store where Lardner worked and shot her repeatedly as she walked down Boston's Commonwealth Avenue. Police found him in his apartment, dead from a self-inflicted gunshot wound. "The restraining orders don't restrain, and I strongly suspect the new anti-stalking order won't hunt," says Kristin's father, Washington Post reporter George Lardner.



Bardo behind bars

## Where Stalking Is Illegal

- California
- Colorado
- Connecticut
- Delaware
- Florida
- Hawaii
- Idaho
- Iowa
- Kentucky
- Massachusetts
- Mississippi
- Nebraska
- Oklahoma
- South Carolina
- South Dakota
- Tennessee
- Utah
- Virginia
- Washington
- West Virginia
- Wisconsin

SOURCE: NATIONAL CONFERENCE OF STATE LEGISLATURES

ABOVE: BILL GENTILE FOR NEWSWEEK, BELOW: DAVID WALBERG



ty can already apply to the civil courts for restraining orders. But such orders are notoriously hard to enforce, and all too often, the first violation is fatal. The California law was drafted after five Orange County women were killed in a six-week period in early 1990. All but one had sought help in vain from authorities. "What does he have to do—shoot me?" 19-year-old Tammy Marie Davis asked police just days before an ex-boyfriend did just that, fatally, in Huntington Beach. When Patricia Kastle, a onetime Olympic skier from Newport Beach, was shot by her former husband, police found a restraining order in her purse.

Massachusetts has since instituted a number of reforms—including computerizing all records of restraining orders and violations. By fall, any police officer or judge should be able to cross-reference them to pinpoint repeat offenders. In Brookline, civil-court judges now routinely look at criminal records of all accused batterers. A committee of the chief justice's office is also studying the idea of outfitting stalkers and their victims with electronic monitoring devices, like those used in house-arrest cases, that would automatically sound an alarm if a stalker came within a certain range.

ADT Security Systems is testing another kind of personal-alarm system for battered women. The victim wears a pendant around her neck, and if she spots her stalker, she presses a button that triggers an alarm at an ADT monitoring station, which in turn alerts police. The system isn't foolproof, however. It works only in close range of a receiving device installed in her home, and a determined stalker could foil it by disconnecting the phone lines. Six Tampa, Fla., women, all former residents of The Spring women's shelter, have been wearing the beepers for the last six months. But only one has used it, when her ex-husband turned up at her home, daring her to shoot him. Police arrived, but the episode left the woman so shaken that she handed in her beeper and went underground. Staffers at The Spring say they don't know what's become of her.

**Packing weapons:** Other desperate victims have taken to packing their own weapons. Sabine Tsang, 27, had filed numerous futile complaints about a former co-worker. Last month, when Irineo Dominguez allegedly accosted her in a parking lot and ordered her into her car, she pulled out a handgun and shot him twice in the abdomen. Dominguez, now recovering in a Houston hospital, has been charged with attempted kidnapping, according to police. But they have not charged Tsang. "I don't think you'd find a jury in Texas that would convict her, so why try?" says Houston homicide Sgt. Doug Bacon.

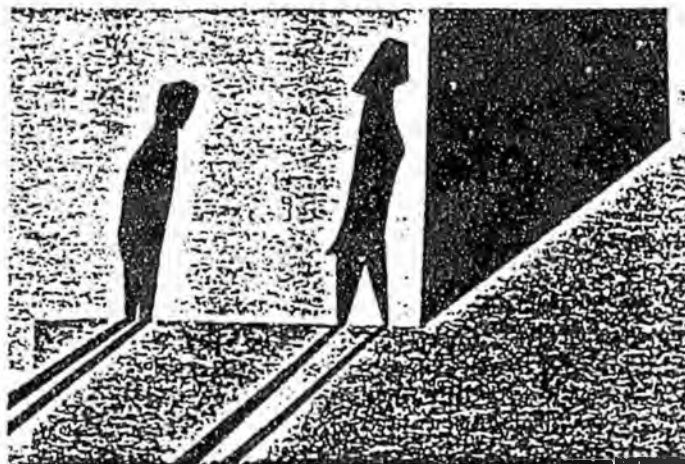
The prospect of more victims arming themselves is no comfort to law-enforcement officials. Yet most admit there is very little they can do in the face of a persistent stalker. "You can put a person in jail for a year or so, but they eventually will get out," says Det. John Lane, part of a four-member anti-stalking unit established by the Los Angeles police after Schaeffer's murder. Even so, the new laws do give police one more weapon to employ against stalkers—and if they deter even a small percentage of crimes, that's better than none.

MELINDA BECK with DEBRA ROSENBERG in Boston, FARAI CHIDEYA in Chicago, SUSAN MILLER in Houston, DONNA FOOTE in Los Angeles, HOWARD MANLY in Atlanta and PETER KATEL in Tampa

## California Law Targets Obsessed Fans, Vengeful Lovers

In separate cases this summer two California men were convicted for repeatedly harassing their former girlfriends, marking the first time in the nation that people have been prosecuted successfully under a felony "stalking" law.

The legislation was passed by California lawmakers last year to give police and courts authority to intervene when victims are being seriously and repeatedly threatened but before they are attacked. Senator Ed Royce introduced the stalking bill after five Orange County women were murdered in 1989, even though they had obtained temporary restraining orders against their assailants and had reported threats of violence to police. Without a law prohibiting harassment, police had been powerless to act until victims were actual-



ly assaulted.

The new law, which went into effect Jan. 1, defines stalking as "willfully, maliciously and repeatedly following or harassing another person" and making credible threats that create a fear of death or serious injury. If the victim has obtained a temporary restraining order against the assailant, stalking is a felony. If no restraining

order is in effect, a first offense of stalking is a misdemeanor; a second similar conviction becomes a felony.

The law also permits judges to establish high bail in some stalking cases to ensure that dangerous individuals are not released to continue to harass, terrorize and possibly kill their victims. The maximum penalty for felony stalking is three years

in prison and a fine of up to \$10,000.

The most sensational stalking cases involved celebrities harassed by obsessed fans. David Letterman, Michael J. Fox and Sharon Gless were recent victims; and two actresses, Rebecca Schaeffer and Theresa Saldana, were brutally attacked by men who lay in wait for them. Schaeffer died. The legislation was strongly supported by groups representing Hollywood stars.

The usual stalking victim, however, is a woman terrorized by a vengeful ex-husband or boyfriend. Senator Royce cites a 1987 report of the U.S. Department of Justice, stating that 31 percent of all female murder victims are killed in incidents of domestic violence; many of the women were harassed or terrorized before being murdered. Although men are stalked less often than women, male victims of harassment received some notoriety in the movie "Fatal Attraction."

In one California case, the court found that the victim's former boyfriend had repeatedly violated a restraining order and had threatened to "blow her head off." The man was sentenced to two years in prison. In the other stalking case, a woman's former boyfriend allegedly poured acid on her car and slashed its tires, abducted her dog, confronted her on the street and shoved her into a pole, and made threatening phone calls. He was awaiting sentencing at press time.

## Checks May Stop Criminals from Buying Guns

In its first year, Oregon's new gun law kept almost 1,000 firearms out of the hands of people prohibited from owning them, according to a study by the Oregon State Police. The state's 15-day handgun waiting period and mandatory background check on all firearm sales uncovered convicted felons and other prohibited purchasers trying to buy firearms from licensed gun dealers.

"The report demonstrates that a handgun waiting period combined with a mandatory background check of

criminal and mental health records works," said Representative Vera Katz, who sponsored the law.

For the study, the first of its kind conducted by a law enforcement agency in the nation, the Oregon State Police screened all firearm sales during 1990 by federally licensed firearm dealers in Oregon. The report, "The 1990 Study of Retail Firearm Sales and Concealed Handgun Licensing in Oregon," indicated that at least 968 people who attempted to buy firearms from licensed

gun dealers had been convicted of felony crimes, convicted during the past four years of violent misdemeanor crimes or committed to a state mental hospital for mental illness.

The state police report was mandated by a law that regulates the sale and possession of firearms, passed in 1989 by the Oregon legislature. The bill had support from the National Rifle Association, local gun organizations, law enforcement agencies in Oregon and gun control advocates.

CC: Network

MAY 19 1992

## LUCILLE BROWN: BRINGING PEACE



Over the course of the 1980s, cities all over the country lived through the phenomenon of the razzie-dazzle school superintendent: arrival from out-of-state, accompanied by high hopes and a glittering résumé; promises of instant change and dramatic educational improvement; bitter quarrels with the existing power structure; and finally, after only a couple of years, a disillusioned community and one more fired superintendent.

Richmond, Virginia, has been through all that. But last year, when Albert L. Jones became the latest in a long string of highly touted failures in the superintendent's office, the city went for somebody completely different: Lucille M. Brown.

Lucille Brown is no newcomer. She has been in the Richmond school system since her days there as a pupil, and she has worked there as teacher, principal and administrator for the past 34 years.

She not only doesn't court the press, she doesn't even want to be interviewed. She offers no promises of dramatic change, only a promise to go slow and keep things calm.

And the city seems to like it. When the *Richmond Times-Dispatch* profiled Brown recently, just about everyone said she was just what Richmond needed after years of educational turmoil. "She's bringing some peace that needed to be back," said the school board chairman. "We had too many new initiatives coming out too fast," said a principal. "She saw the need to slow down the pace."

Brown has faced her share of problems, such as a serious equipment shortage and a protest by senior teachers who feel the salary scale discriminates against them. A few critics complain that she is so slow-moving as to border on indecisiveness. But Brown clearly has some priorities. She has launched an interdisciplinary science program at the high-school and middle-school levels. She surprised some observers by staking out a pro-neighborhood school policy and reversing an earlier decision to turn a large neighborhood high school into a regional school exclusively for the gifted.

Mostly, though, Lucille Brown seems to be doing well because of what she isn't: a flashy and charismatic salesperson of the sort that has failed too many times in too many places in America in the last few years.

—Alan Ehrenhalt

person faculty includes teachers, a medical director and support staff. The school will admit 20 students by June, and hopes to hold a maximum of 100 by 1993. After spending time in this transitional, non-diploma program, students can then transfer credits back to Albuquerque's other high schools.

Principal Hayes has received positive feedback from participants thus far. For students who used to spend their days on drugs, a day in this school "is a whole different situation," says Hayes. "but they are kept busy, and the day goes by fast."

—Jeanne Ponessa

For more information, contact Manjo Rymer, Public Information Director, Albuquerque Public Schools, P.O. Box 25704, Albuquerque, NM 87125.

## A High School Just for Kids Kicking the Drug Habit

Don't look for football or cheerleaders at a new Albuquerque high school. From its name, Recovery High, to some of its activities, including extensive therapy sessions, the school is anything but traditional.

Recovery High, which opened in February, is believed to be the only high school in the country dedicated exclusively to former substance abusers.

The school offers a regular curriculum for

grades 9 through 12. But along with math and English, the program includes art therapy, group discussions about recovery and weekly meetings with students' families. "We also have experiential or adventure therapy such as rock climbing or ropes courses all day every Wednesday," says Principal Jan Hayes.

The idea for Recovery High was first developed by an Albuquerque neighborhood anti-drug organization in 1990. The

Robert Wood Johnson Foundation awarded an \$600,000 grant for the school's first 18 months, and the school district provided the remaining \$267,000 needed to open the doors.

Students are admitted to Recovery High on a voluntary basis after referral from a counselor or treatment center—and after passing a drug test. "What we're looking for is an interest and a commitment to recovery," says Hayes. And the idea seems to be catching on—so far, the school has been swamped with referrals.

Recovery High's 12-

## Stalking 'Stalkers' With Tough New Laws

For nearly a year, Carrie Prickett successfully shielded herself from harassment by an ex-boyfriend, moving in with friends and having them screen her telephone calls. Her efforts, however, could not prevent an outcome that is all too familiar in "stalking" cases: Police recovered Prickett's charred body from a creek near her Virginia home and charged the man with her slaying.

## Stalking Legislation Sweeps the Nation

Violent, harassing and threatening behaviors toward innocent citizens have always been a serious problem particularly for victims of domestic violence and sexual abuse. Yet it has taken a series of high profile cases during the last few years — often involving celebrity victims — to focus public attention on stalking as a serious crime problem.

While laws such as protective injunctions and stay-away orders do exist to protect victims from violent pursuers, law enforcement officers may not intervene until such orders have been violated. By then, it is usually too late to prevent the offenders from harming or even killing those whom such orders were designed to protect.

In recognition of the ineffectiveness of such orders and in response to a series of tragic crimes committed by perpetrators who stalked and harassed their victims before turning to violence, California passed the nation's first "stalking" law in 1990. In simple terms, the law makes it a crime to engage in a pattern of behavior that harasses and/or threatens other people. Its purposes are twofold: to eliminate behaviors which disrupt normal life for the victim, and to prevent such behaviors from escalating into violence.

In July 1991, the Center included the concept of stalking laws in its *Crime Victims and Corrections* training and technical assistance project sponsored by the U.S. Department of Justice Office for Victims for Crime. Two months later, Center staff appeared on NBC's *The Today Show* and *A Closer Look with Faith Daniels* to emphasize the importance of stalker laws. In September 1992, Center staff joined journalist Ted Koppel on ABC's *Nightline* to defend the constitutionality of such legislation.

California's landmark legislation has led to an unprecedented deluge of "anti-stalking" legislation nationwide. To date, twenty-seven states have passed laws based on the California model this year alone.

In most states, stalking is defined as the "willful, malicious and repeated following or harassing of another person, and requires the existence of a credible threat of violence." Penalties for violation vary; however, most carry a penalty of one year in jail and/or a \$1000 fine.

Senator Bill Cohen (R-ME) has introduced legislation which charges the National Institute of Justice with developing a model stalking law which should pass constitutional muster. This model would then be made available to state legislators.

In Los Angeles, stalking laws have led to the creation of the four-member *Threat Management Division* of the Los Angeles Police Department. In the last year and a half, the Division has handled more than 150 stalking cases. In other states, law enforcement officials are already making arrests under these newly passed statutes.

The National Victim Center has acted as an information clearinghouse regarding stalking laws. By providing interested legislators with information and technical assistance, and heightening public awareness through the media, the Center has assisted many states in drafting and passing anti-stalking laws. The Center intends to keep abreast of all aspects of this significant and expedient legislative trend.

For additional information, please contact the Center's Director of Public Affairs, David Beatty, at (703) 276-2880.

## States With Anti-Stalking Laws

- California
- Colorado
- Connecticut
- Delaware
- Florida
- Idaho
- Iowa
- Illinois
- Hawaii
- Kentucky
- Louisiana
- Massachusetts
- Mississippi
- Nebraska
- New York
- North Carolina
- Ohio
- Oklahoma
- South Carolina
- South Dakota
- Tennessee
- Utah
- Virginia
- Washington
- West Virginia
- Wisconsin

# Police say anti-stalking law would protect women

THE ASSOCIATED PRESS

**ANCHORAGE** — An anti-stalking bill now before the Legislature would stiffen penalties against men who obsessively follow women, a move police and victims say is desperately needed.

Under laws now on the books, police often can only charge stalkers with misdemeanors like trespassing and disorderly conduct, sanctions victims and their families call inadequate.

That may change, however, because lawmakers have introduced legislation this session that would make stalking a felony in certain circumstances.

"This is a major concern," said state Rep. Cynthia Toohey, a sponsor of the stalking bill. "As women get more involved in working and supporting their families, they need more protection."

At least 27 states have passed such laws.

One case involving a 32-year-old Anchorage woman provides a compelling example.

Police say Gary Woodrow Petersen's obsession began in 1990 when he went to a chiropractic clinic and met a woman who looked like his late wife.

For more than a year, he didn't want to let her out

of his sight. Police say he would hang out in the parking lot of the building where she worked. He would follow her home. He would watch her house at night.

On Jan. 18, after the woman had filed six complaints with police, the 56-year-old Federal Aviation Administration employee was arrested and charged with disorderly conduct. He was released from jail four days later after posting \$2,000 bail.

Police won't release the name of the woman in the case.

According to the criminal complaint filed against Petersen, the woman and her husband befriended him until he began following her. At one point, the clinic where she worked issued him a notice not to trespass or bother employees. Then Petersen got a call from Anchorage police.

"The police officer called him and told him to stay away," APD spokeswoman Jo Katkus said.

But police say that didn't stop Petersen, who continued to wait, follow and stare.

On Jan. 6, 1992, he parked his car in the driveway of the woman's home. Her husband turned on the floodlights outside, approached Petersen with a gun

and fired two warning shots. Petersen finally left, but police later cited him for trespassing.

Almost two weeks later, he called officers to report that one of the bullets fired that day had hit his car. The woman's husband was cited for misconduct involving weapons, police said.

Petersen, reached at his home recently, denied ever bothering the woman. He would not comment further and referred questions to his attorney, who would not talk about the case.

This year, exactly one year after the shooting incident, police say the woman had another confrontation with Petersen: She spotted him watching her when she left work Jan. 6, and he followed her in his car as she tried to speed away.

After a short chase at speeds that reached 80 mph, she was sure she had lost him. But when she got to an intersection near her home, she saw Petersen's car parked in a lot nearby, at South Birchwood and the Old Glenn Highway. Petersen gunned his accelerator and drove straight toward her. She veered out of the way and sped home.

Police arrested Petersen 12 days later.

If found guilty of disorderly conduct, Petersen would face up to 90 days in jail and a \$1,000 fine.

The proposed legislation would carry both misdemeanor and felony penalties. If someone continues to follow and harass a person in violation of a restraining order, he or she could be charged with a felony that carries up to five years in jail and a \$50,000 fine.

Petersen's victim had obtained a restraining order against him, but that failed to stop him.

Police Capt. Shirley Warner, who serves on the Anchorage Domestic Violence Committee and the Task Force on Sexual Assault, says a stalking law would help the efforts of both organizations.

Police generally can't do much if someone is on public property, but a stalking law would prevent someone from hanging around and intimidating the victim, even if the stalker is not violent.

"They are somebody who is just obsessed," Warner said.

Sometimes the obsession turns deadly. In 1990, 21-year-old Andy Nelson of Anchorage was charged and convicted of murder after he stalked his former girlfriend, then shot and killed her.

# Family keeps watch through murder trial

## 'Long, hard battle' for victim's kin, friends

By DON HUNTER  
Daily News reporter

It was Sandra Pogany who wanted to be a lawyer, not her father.

At 21, she had the tools. She was bright, a good student, a national debate champion. But it is Gary Pogany who has prowled the hallways and offices of the state courthouse the past 10 months, a guy in jeans and a weather-worn brown leather jacket among the suits and wingtips.

"There's not really much a person can say," Pogany said Thursday, a few moments after the state's case against the young man who killed Sandy Pogany last summer went to the jury.

"It's been a long, hard battle. Susan Parkes did a good job with

her presentation. She worked hard, and so did Jim Hanley."

The jury in Andy Nelson's case is deliberating today. Nelson, 22, has conceded firing the shots that killed Pogany and wounded Thomas Van Flein, a law clerk who was dating Pogany for the second time. But his attorneys and a psychiatrist who interviewed him this spring say Nelson was overcome by a psychotic depression and mentally unable to form the intent to kill necessary for a first-degree murder conviction.

At trial, the psychiatrist, Dr. G. Christian Harris, said Nelson was confused and uncertain when he opened fire, but told him he drove home with the sense that a burden

Please see Back Page. **MURDER**



JIM LAVRAKAS / Anchorage Daily News

Gary Pogany listens to opening arguments at the trial of Andy Nelson.

## MURDER TRIAL: Victim's family endures long ordeal

Continued from Page A-1

been lifted from him. When he said that he felt freed after the killing."

Pogany said, "any passion in our family for what was gone at that time."

In the months, Gary Pogany prodded and pushed to the charges against Nelson to trial. He worried Nelson's family hired

Bryson, a sought-after defense attorney with a reputation built on a steady

stream of high-profile felony cases, fearing that Parkes, a less-experienced state prosecutor, might be out of depth.

"I had a lot of concern about that," he said, although Parkes did a good

job. "The victim's family should have some rights in

deciding who prosecutes the case."

By the time Nelson came to trial, the patience, and sometimes the composure, of the Pogany family was wearing thin.

Early in the trial, the judge warned that it was important for Sandy's family and friends to mask their feelings in the courtroom. It wasn't easy to keep a mask in place. The trial brought hurts and subtle affronts.

When the attorneys described how Nelson stalked Sandy at a couple of Anchorage nightspots before her death, reporters picked it up; the retelling seemed to make Sandy sound more like a carouser than the dutiful student who occasionally went dancing on weekends.

And then Harris, the defense expert, talked about the relationship between Nelson and Sandy Pogany: "I didn't feel the psychiatrist had a right to call Sandy by her first name when he always called Andy 'Mr. Nelson,'" said Sandy's brother, Steve Pogany. "And when they used the term 'making out,' they made it seem like she'd done a lot of that. She hadn't."

Steve testified early in the case and then joined his father in the first row behind the prosecution table for the duration of the trial.

A couple of days later, one of the alternate jurors complained to the judge that he felt pressured when Steve looked at him. If one juror felt pressured, another

seemed oblivious. An elderly woman who appeared to keep nodding off was eventually excused before deliberations began.

Harris also testified that the attack on Sandy early on the morning of Aug. 5 was one of several options racing through Nelson's mind. He also considered shooting Louise Pogany, Sandy's mother, thinking that hurting her mother would cause Sandy the kind of pain he felt, Harris said.

"We thought we knew him," Gary Pogany said. "But you couldn't read him. He called my wife up on July 15; he called her to wish her a happy birthday. And then in a matter of a couple of weeks later, he's thinking about killing her."

## THE BACK PAGE

# STALKER: Proposal would raise penalty in some circumstances

Continued from Page A-1

specifically addressing stalking another person. That may change, however, because lawmakers have introduced legislation this session that would make stalking a felony in certain circumstances.

"This is a major concern," said state Rep. Cynthia Toohy, a sponsor of the stalking bill. "As women get more involved in working and supporting their families, they need more protection."

At least 27 states have passed such laws.

Police won't release the name of the 32-year-old woman involved in the Anchorage case.

According to the criminal complaint filed against Petersen, the woman and her husband befriended him until he began following her. At one point, the clinic

where she worked issued him a notice not to trespass or bother employees. Then Petersen got a call from Anchorage police.

"The police officer called him and told him to stay away," APD spokeswoman Jo Katkus said.

But police say that didn't stop Petersen, who continued to wait, follow and stare.

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Petersen finally left, but police later cited him for trespassing.

Almost two weeks later, he called officers to report that one of the bullets fired that day had hit his car. The woman's husband was cited for misconduct involving weapons, police said.

Petersen, reached at his home recently, denied ever bothering the woman.

"That's just the police report. There are falsehoods," he said. "There's more involved than what you think."

He would not comment further and referred questions to his attorney, who would not talk about the case.

This year, exactly one year after the shooting incident, police say the woman had another confrontation with Petersen. She spotted him watching her when she left work Jan. 6, and he followed her in his car as she tried to speed away.

After a short chase at speeds that reached 80 mph, she was sure she had lost him. But when she got to an intersection near her home, she saw Petersen's car parked in a lot nearby, at South Birchwood and the Old

Glenn Highway. Petersen gunned his accelerator and drove straight toward her. She veered out of the way and sped home.

Police arrested Petersen 12 days later.

"Petersen's harassment has caused her to not feel safe in her own home and she constantly fears for her husband and children's welfare," the complaint says.

If found guilty of disorderly conduct, Petersen would face up to 90 days in jail and a \$1,000 fine.

The proposed anti-stalking legislation would carry both misdemeanor and felony penalties. If someone continues to follow and harass a person in violation of a restraining order, he or she could be charged with a felony that carries up to five years in jail and a \$50,000 fine.

Petersen's victim had obtained a restraining order

against him, but that failed to stop him.

Police Capt. Shirley Warner, who serves on the Anchorage Domestic Violence Committee and the Task Force on Sexual Assault, says a stalking law would help the efforts of both organizations.

Police generally can't do much if someone is on public property and watching, even if they are in front of the victim's home.

"There is really nothing we can do unless they trespass or directly harass the victim," Warner said.

But a stalking law would prevent someone from hanging around and intimidating the victim, even if the stalker is not violent.

"They are somebody who is just obsessed," Warner said.

Sometimes the obsession turns deadly. In 1990, 21-year-old Andy Nelson of An-

chorage was charged and convicted of murder after he stalked his former girlfriend, then shot and killed her.

Janice Lienhart, director of Victims For Justice in Anchorage, says about five women a year call her to say they are afraid of men who are stalking them.

"I have encouraged them to contact their legislators to help get a stalking law."

One woman was so frightened that she left her job and the state, Lienhart said.

Lienhart said she knows of another woman being stalked and terrorized by a man she once had a relationship with. The woman tells few people where she lives and approaches each day with fear.

"She's basically in her own little prison," Lienhart said. "It's sad to have to live that way."

# New bill targets stalkers

Under proposal, penalties may rise

By PAMELA DOTO  
Daily News reporter

Police say Gary Woodrow Petersen's obsession began in 1990 when he went to a chiropractic clinic and met a woman who looked like his late wife.

For more than a year, he didn't want to let her out of his sight. Police say he would hang out in the parking lot of the building where she worked. He would follow her home. He would watch her house at night.

On Jan. 16, after the woman had filed a half-dozen complaints with police about Petersen, the 56-year-old Federal Aviation Administration employee was arrested and charged with disorderly conduct. He was released from the Sixth Avenue Jail four days later after posting \$2,000 bail.

Disorderly conduct, a misdemeanor, is the most police could charge Petersen with because Alaska has no laws

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STALKER

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# JUNEAU EMPIRE

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## 'Stalkers' must face punishment

**W**hat happens when a man repeatedly follows a woman down the street, lurks outside her house, tails her in his car or waits for her in the office parking lot? In Alaska, too often, the answer is nothing.

Thankfully, there are efforts under way in the Legislature to change that.

Several so-called "anti-stalking" measures are now under consideration. It's a good bet they'll be consolidated into a new law that will stiffen the penalties for such behavior.

That's good news, because stalking is a crime that terrorizes women and, sometimes, their families. On occasion the roles have been reversed, with women following men.

Usually it's a would-be boyfriend or angry ex-lover or estranged husband. Sometimes it's a stranger.

In the worst instances, their threats eventually escalate into violence. Even when they don't, the fear of what might happen is enough to terrify the victims of stalkers. No one should have to live like that.

Under current Alaska law, authorities can't do much to discourage stalking —

trespassing and disorderly conduct charges aren't a strong enough deterrent — until the incident turns violent. In other words, the victim isn't helped until it's too late.

There are seven bills in the Legislature to change the law. Although the proposals are different — some would expand the existing prohibition against terroristic threatening, others would create a new anti-stalking statute — the ideas generally are the same. First-time stalking offenses would be a misdemeanor and, notably, the crime would become a felony if it's repeated, if it's done in violation of a court order or if it involves a weapon.

The intent is clear: With an anti-stalking law on the books, authorities will be able to act before threats become violent.

As many as 30 states have adopted similar legislation in the past couple of years. Alaska needs to do so, too.

**TOPIC:** Measures that would make 'stalking' a crime



Extended to summer

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Seawolf Paul Krake

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# Anchorage Daily News

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PRICE

## Hostage-taker killed

### 4 freed; blast ends standoff in Chugiak

By PETER BLUMBERG and LARRY CAMPBELL  
Daily News Staff Writers

A man boiling with rage over a woman who left him died amid gunfire and a fiery explosion Wednesday afternoon after holding a family hostage with a gun and a bomb in a Chugiak trailer.

Conn Wayne Duncan, 40, held Anli and Wendy Lydy and their two young daughters for nearly five hours before attempting a desperate bid to freedom with one of his hostages.

Police bullets and his own bomb stopped him.

The Lydy home had been a refuge for Duncan's ex-girlfriend, who had been fleeing his violent attacks for nearly a month. But that haven turned to hell when Duncan showed up Wednesday morning.

Anchorage Police sharpshooters' bullets dropped Duncan to the ground outside the trailer as he tried to escape to a pickup truck with Bob Lydy. The hostage ran to safety before the plastic explosive attached by Duncan blew up in his hand.

Lydy's wife, Wendy, and the couple's 10- and 4-year-old daughters, were released earlier unharmed. Lydy's only injury was a cut on the chin.

Duncan's violent death marked the end of a month of terror he inflicted on the 30-year-old woman he once lived with, as documented in court records.

On Feb. 24, the woman was granted a restraining order against Duncan after she told a judge he'd threatened her by holding a gun to her head. A judge also issued an arrest warrant for assault.

The following week Duncan, under arrest, appeared in court on a charge of growing some 60 mari-



After the bomb exploded, police officers train their rifles on Conn Duncan in case he is still alive, while firefighters move to put out the fire.

■ 'TAKE HIM OUT': Order to fire was first for special city police team. B-1

juana plants at a Spenard trailer he owned. At another hearing later that day, he tried to have the arrest warrant on the assault dropped. He denied ever threatening his ex-girlfriend.

"I'm not a violent person," Duncan told one judge. "I have no record of that. I have no desire to bother (the victim). I'm not going to do that."

Duncan posted a \$2,500 bond March 4 and was freed. Five days later, he allegedly abducted her from work, took her to her South

Anchorage home and, over the next 36 hours, raped her seven times. According to police investigators, the attacks were interspersed with aimless ramblings and violent assaults.

At one point he bound her to the bed with duct tape. And he threatened her again with a gun. Only when her boss called her at home for missing work did Duncan leave.

"She was definitely a woman living in fear," said Sgt. Gary Apperson, who investigated the assault.

Another arrest warrant was is-

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HOSTAGE-TAKER



Police officers surround Conn Duncan after the explosion. The 10-year-old girl also was injured.

## Captor had violent background



Conn Wayne Duncan

By DAVID HULEN  
Daily News reporter

Conn Wayne Duncan, the man who took four people hostage in Chugiak Wednesday before being blown to bits by a bomb he was holding, was no stranger to violence — or explosives.

Five years ago this month, Duncan was arrested for beating up his former wife, Laura Risinger, according to court records. Police seized a 9mm handgun.

Angry about their pending divorce, he had been calling her as often 30 times a day with threats, Risinger recalled in an interview Wednesday

And, she said, he threatened to kill her with a bomb.

"He was harassing me," Risinger said. "He took to following me around with plastic explosives. He was calling me every 15 minutes telling me how much of the neighborhood he could flatten."

The woman obtained a court order requiring Duncan to stay away from her, though prosecutors never filed criminal charges against him. When she got an unlisted phone number, Duncan's threats ended, she said.

Duncan, an auto-body repairman,

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# THE BACK PAGE

## Standoff ends in flames

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sued for rape and kidnapping and the restraining order was continued.

At the end of a hearing where the woman repeated her fear of Duncan, Magistrate Andrew Brown asked her if she wanted an escort from court.

"I have a bodyguard," she said without further explanation.

Wednesday morning, Duncan arrived at the trailer at Mile 18 of the Old Glenn Highway shortly before 8 a.m. looking for the woman. She'd taken refuge with the Lydys two weeks ago.

"The girl was visiting Bob and Wendy," said Chet Giles, owner of the A Transmission auto shop across the street from the trailer. "According to her, she told Bob that this guy had a gun and was looking for her, and Bob said, 'I've got a gun, too.'"

"Bob probably never thought it was going to happen like this."

Duncan tried to force the woman to leave with him. But while Duncan thought she was tying her shoes to leave, she ducked out of the trailer and ran to a neighbor's house, where she called police.

By 10:30 a.m., the police bomb squad and the Crisis Intervention Response Team were poised around the trailer. Police hostage negotiators established telephone lines from a command van parked nearby while other officers closed off the surrounding area and blocked traffic on the highway.

Giles, who had heard about the drama from the shop since early that morning, listened in as police questioned the ex-girlfriend inside his shop.

At one point, he said, Duncan ordered Bob Lydy to leave the trailer and look for her. Lydy caught up with her at the neighbor's house, but instead of taking her to

**6 We made the decision that we would not let him get in a vehicle and leave. 9**

— Deputy Chief Duane Udland

return, told her to stay put. Lydy returned to the trailer and his captive family.

Police had decided early on that they would kill Duncan rather than let him escape with explosives, according to Deputy Chief Duane Udland. They already knew he'd fired one shot from his 9mm pistol into the floor.

They also believed his bomb threat.

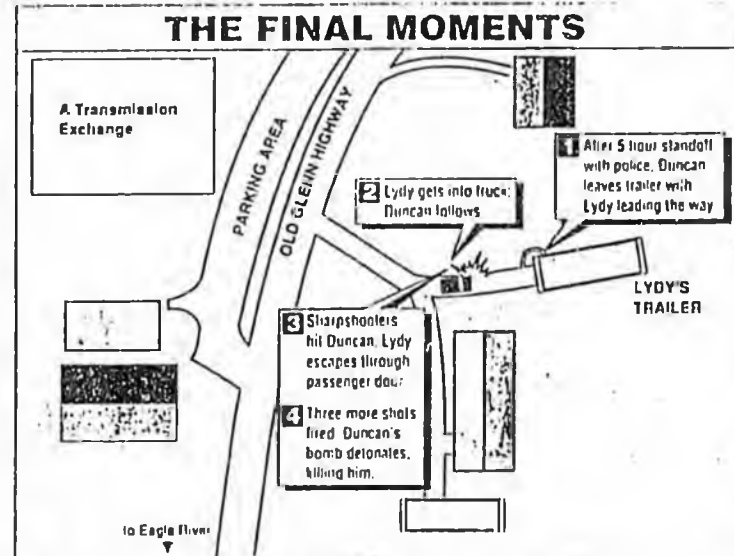
"They'd been told that morning, by his ex-wife, the ex-girlfriend and an acquaintance of Duncan who showed up at the scene, that he had up to 10 pounds of plastic explosive."

"We were convinced he had a real bomb," Udland said. "Our hope was he would come out of the trailer by himself. We made the decision that we would not let him get in a vehicle and leave."

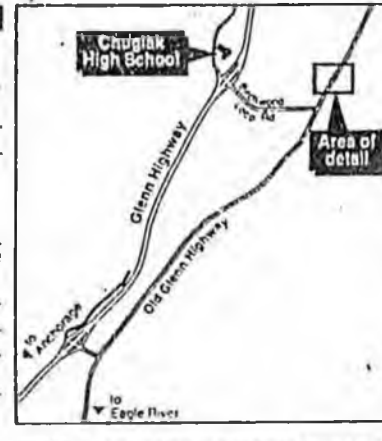
Trained negotiators at police headquarters in Anchorage had made three or four telephone calls to the trailer, and officers in the command van made several more, Udland said. Duncan's only clear demand was that police bring back his ex-girlfriend.

"He talked in vague terms about how life couldn't go on any more and how he couldn't go back to jail," Udland said. "I don't think he was too worried about us hurting him. He said, 'I know you'll end up arresting me and I'm not going back to jail.'"

Then came a note, entitled



SEQUENCE OF EVENTS	
Before 8:00 a.m.	Conn Duncan arrives at trailer of Bob and Wendy Lydy looking for his ex-girlfriend
8:07 a.m.	Duncan's ex-girlfriend calls police from neighbor's house after escaping
8:13 a.m.	Police arrive at Lydy's trailer
10:35 a.m.	Eight members of Crisis Intervention Response Team stake out positions surrounding trailer. Bob and Wendy Lydy and their two daughters are hostage inside.
11:15 a.m.	4-year-old girl released unharmed, note demands that Duncan's ex-girlfriend return to trailer within one hour
12:15 p.m.	10-year-old girl released unharmed
1:04 p.m.	Wendy Lydy released unharmed
1:06 p.m.	Duncan and Bob Lydy emerge from trailer
1:07 p.m.	Police shoot Duncan. A plastic explosive he was carrying explodes



to police by the terrified 4-year-old girl.

"I want my mommy! I want my mommy!" she cried. Sgt. Walt Monagan bundled her in his arms and carried her to safety.

Police read the message she brought. Duncan said he would detonate his bomb if his demand wasn't carried out within the hour.

A short time later the older daughter was allowed

to leave. The three adults inside were calm and huddled in the kitchen, she told police.

But negotiations between Duncan and police were falling apart.

leave the trailer — and was going to take the Lydys with him. But Bob Lydy refused to go unless his wife was released first, Udland said.

"That demand may very well have saved both their lives," Udland said.

The trailer door opened and Wendy Lydy walked away.

Just after 1 p.m. Duncan left the trailer, with Bob Lydy leading the way. Police CRT members aimed their M-16 assault rifles at Duncan as he motioned Lydy to his ex-girlfriend's truck.

As Lydy climbed into the driver's door and into the cab, a sharpshooter fired. The shot knocked Duncan to his knees.

Duncan rose to his feet. From their positions, the police could see Duncan pull something on the bomb in his hand.

Seconds later, police fired three more shots. One hit Duncan. As he struggled on the ground, Lydy fled out the truck's passenger door.

Suddenly Duncan disappeared in a flash of light, and a split second later came a muffled blast. Lydy, in the midst of his dash, raised a fist.

When the smoke lifted, the truck was ablaze and Duncan's body was gone.

"The good guy is OK! The good guy is OK!" a voice screamed over a police radio.

Udland said later that Lydy used his head. "He did exactly what we were crossing our fingers and hoping he would do."

Across the street in his shop, Giles said police found some of Duncan's remains strewn about his yard.

Police and federal agents plan to analyze the bomb to determine what it was made of and how.

Daily News reporters Marilee Eng, Dan Hunter and Pamela Oato contributed to this report.

# Why Duncan wasn't in jail

Man killed in hostage standoff sounded like a good bail risk in court

By DON HUNTER  
Daily News reporter

In court three weeks ago, Conn Wayne Duncan looked and sounded like a pretty good bail risk, especially compared with the other criminal defendants sitting around him.

He had lived in Alaska for years and hadn't been in any serious trouble before. In his recent brushes with the law, he had voluntarily showed up for court dates on a charge of growing marijuana.



Duncan

■ **NO GUARANTEES FOR WOMEN:** The Conn Duncan case underlines the plight of domestic-violence victims. F-1

■ **INVESTIGATION:** Parked car may have signaled ex-girlfriend's presence to Duncan; police look for more explosives. B-1

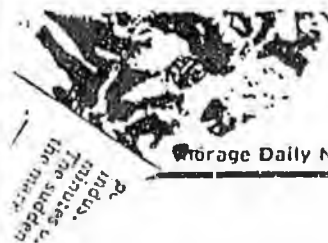
Largely as a result, the man who this week held a Chugiak family hostage before exploding himself with a homemade bomb was able to persuade a judge to reduce his bail from \$10,000 to \$2,500 on a charge of threatening his

ex-girlfriend with a gun.

After failing to talk another judge into letting him go solely on his promise to show up for trial, Duncan bailed out of jail March 4 and skewed out of control.

On tape recordings of his court appearances, Duncan sounds calm and intelligent as he tried to convince judges that the charges against him were false, that the woman who claimed he held a gun to her head was lying or mistaken, and that he would stay out of trouble.

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# THE BACK PAGE

## DUNCAN: Man who took hostages went free on lower bail

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Assistant District Attorney Steve Branchflower argued against reducing Duncan's bail at those hearings. On Thursday night, however, Branchflower said the 40-year-old divorced father had done a good job of concealing his anger.

"A lot of times crazy people let off vibrations," Branchflower said. "This guy acted like a regular person. There was nothing about his appearance that would cause you to get scared."

In court March 3 and 4, Duncan insisted he had done nothing wrong.

"Your honor," he told one judge, "I'm not trying to sound like a really super good guy or anything. . . . I understand that my ex-girlfriend was upset with me. We were both upset. But I do not know where she got the idea that I had a gun. I haven't had one since 1987. I

*A lot of times crazy people let off vibrations. This guy acted like a regular person. There was nothing about his appearance that would cause you to get scared.*

— Assistant District Attorney Steve Branchflower

don't have one now. I don't need one."

People accused of crimes under state law are entitled to a reasonable bail. The trick is deciding what's reasonable. Judges usually go on a defendant's history and his ties to Alaska. In Duncan's case, his record before the pot bust was practically spotless.

Duncan and his attorney asked Judge John Lohff to let him go on his own recognizance, which is basically an unsecured promise that he would show up for future court dates. His argument was strengthened by the fact he had voluntarily appeared in court that very day.

But Duncan hadn't known that there was a second arrest warrant out for him when he appeared in court on the drug charge March 3. The second warrant — for the assault charge against his ex-girlfriend — was served on Duncan in court. The judge who had issued it set bail at \$10,000.

"If he had known earlier that there was a warrant (for the assault), he would have turned himself in," said the assistant public defender who was representing him. "There's no indication he's a flight risk. He's lived in Alaska for 14 years. I think his record speaks for itself."

Branchflower, however, argued against reducing Duncan's bail, much less setting him free on his own recognizance.

"I've seen this situation happen many times, where a matter is brought to the attention of the police," Branchflower told the judge on March 3.

"Usually, the boyfriend, the husband . . . their reaction is anger and rage. This is a particularly dangerous time now when the defendant finds that someone he has trusted and loved has resorted to the police."

Lohff refused to let Duncan free without bail, but he reduced it to \$2,500.

Duncan stayed in jail that night. The next day, he tried to persuade Judge Natalie Finn to let him out without posting bail.

"I'm not a violent person," Duncan told Finn.

"Your honor, I guarantee you, you have my word, my sacred honor, I will be here to take care of this. I'm not going to run."

Finn also refused to reduce Duncan's bail below \$2,500.

About 10 p.m. the same day, Duncan made bail and checked out of Cook Inlet Pre-Trial Facility.

The next time authorities heard of him was March 10, when the woman who said Duncan had held a gun to her head reported that he appeared at her door March 9, held her captive for more than 24 hours and raped her.

More charges were filed, this time for rape and kidnapping, and the judge who signed that warrant set bail at \$100,000. But Duncan was nowhere to be found.

He didn't appear again until the morning of March 25, when he tracked his ex-girlfriend to the home of friends in Chugiak.

Branchflower said he had argued against decreasing Duncan's bail because he thought Duncan needed time to cool off. People who have just been arrested can get pretty angry at the people who accuse them, especially when they're accused by girlfriends or wives, he said.

"I've developed a sense of radar with these guys, and I knew something would happen," he said. "I didn't know it would be this bad."

"That's not to say I haven't made that argument many times and been wrong," Branchflower said. "I've often said our job is very much like defusing bombs. And every once in a while one blows up. You never hear about the ones that don't. You hear about the one that blows up. Unfortunately, in this case, literally."

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## Efforts to Protect Women From 'Stalkers' Gain Momentum at State, Federal Levels

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**By David Holmstrom**

Staff writer at The Christian Science Monitor

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BOSTON

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**T**HE many incidents of domestic violence in the United States, like frayed parts of a fabric, continue to challenge the viability of hundreds of thousands of families and relationships.

In an effort to stop more unraveling, Congress approved a plan in October to create a model antistalking law. The objective is to help states deal effectively with the estimated 200,000 people, mostly men, who stalk someone each year —

usually an estranged wife or girlfriend.

Since 1990, when California passed the first antistalking law after actress Rebecca Schaeffer was shot and killed by a stalker, 29 states have followed suit — despite claims that some of the laws are not constitutional. Five more states are preparing such legislation. Studies indicate that the leading cause of injury today for American women is the result of being beaten by a man.

According to Sen. William Cohen (R) of Maine, the sponsor of the congressional bill, each year in the US an estimated 4 million men kill or violently attack women they live with, date, or were formerly intimate with. "Women who seek protection," he said when the bill was passed, "often

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THE CHRISTIAN SCIENCE MONITOR

Tuesday, December 22, 1992

## STALKING from page 1

face a judicial system that has traditionally viewed such violence as 'domestic disputes.'

Some argue that a pervasive male attitude that women should be subservient, and a judiciary inclined to see domestic violence not as a crime, but rather as a domestic issue, place many women in peril. Of all those women murdered by their ex-husbands or boyfriends, studies indicate that 90 percent had called the police at least once for protection, and more than half had called five times or more. The Federal Bureau of Investigation reports that 30 percent of female murder victims in 1990 were slain by husbands or boyfriends.

The congressional bill, signed by President Bush, directs the National Institute of Justice - a government criminal-justice research agency - to develop a statute against stalking that will be constitutional and based on recommendations from a number of law enforcement agencies and governmental public interest groups. Many law enforcement agencies could not take action against stalkers until now because they had not committed a crime.

The growing awareness of stalking as a crime is the product of recent, well-publicized deaths of several women. In suburban Boston, 21 year old Kristen Gardner was shot to death by her ex-boyfriend on the street recently. Last week, two more women were slain here by stalkers.

Earlier this year in Elmhurst, Ill., a couple was shot to death in their driveway by a man who had been stalking the woman.

In Maine, a man who has been in and out

of mental hospitals, and repeatedly violated restraining orders, has been stalking Kimberly Poland for eight years. He first saw her photo in a newspaper and continues to stalk her. (In most cases, the men do not have mental disorders.)

In Massachusetts, officials say at least 40 women have been killed this year because of domestic violence, with several deaths preceded by stalking. In Minnesota last year 26 women were killed in domestic violence in-

### States with 'Stalking' Laws

Stalking is typically defined as willful, malicious, and repeated following and harassing of another person.

Alabama	Iowa	Oklahoma
California	Kentucky	Rhode Island
Colorado	Louisiana	South Carolina
Connecticut	Massachusetts	South Dakota
Delaware	Mississippi	Tennessee
Florida	Nebraska	Utah
Hawaii	New York	Virginia
Kansas	North Carolina	Washington
Idaho	Ohio	West Virginia
Illinois		Wisconsin

Stalkers. Half of the Minnesota women had sought help from the state. "Whenever the woman takes a step to end an abusive relationship," says Janet Fine, chief of the Victim Witness Service in the Suffolk County, Mass., district attorney's office, "she is potentially at greater risk."

Typically, after being regularly battered, a woman obtains a restraining order against her abuser and tries to separate herself from him. In Massachusetts since September, when a new state record-keeping system went into effect, of the 2,000 restraining

orders issued, more than a third had been violated in the first few days. Often the order triggers men to stalk and harass the women.

Michael Paymar, training coordinator with the Duluth, Minn., Domestic Abuse Intervention Project, says: "There are a certain percentage of men who are extremely afraid of the law."

A battered and frightened woman seeking to end such a relationship needs help and support. In Massachusetts, the legislature has earmarked funds for support necessitated by domestic violence.

"In the courts here where the greatest number of restraining orders are issued," Ms. Fine says, "we have a program to assist women and assess their level of risk. We can help them get to a shelter or figure out another safe plan for them and provide other kinds of services. But there are so many victims here, and nationally, too, that we are nowhere near where we should be in terms of services."

In Minnesota, Mr. Paymar says, "the state has committed a lot of money to shelters and legal advocacy for women." Transitional housing is provided to abused women. For some women a two-year program in an apartment style complex helps them reorient their lives. Duluth also has programs to try to reform perpetrators of violence.

Paymar says: "It has been sanctioned in society for a thousand years that a man has control over his woman.... We confront those beliefs and ask him where does he get the right to do it? What do you want a woman in your life for? You are depersonalizing her, humiliating and injuring her, yet you say you love her. It doesn't make sense. We help them learn how to live differently."

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (Fin)

Revision Date: 3/19/93 Dept. Affected: Corrections  
 Title: "An act creating crime of stalking" BRU: \_\_\_\_\_  
 Component: Institutions  
 Sponsor: Rep. Toohy  
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 1860

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-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
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REVENUE FUND SOURCE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

The Department's position is that there is no fiscal impact because the number of cases that will result in convictions for stalking is not easily quantifiable, although the Department assumes that the number will not be significant.

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

Phone: 465-3376  
 Date: 3/19/93  
 Date: 3/19/93

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FISCAL NOTES:

# FISCAL NOTE

No. 6

Bill Version: CSHB 64 (FIN)

(H) Publish Date: 3/12/93

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Revision Date: 3-8-93

Dept. Affected: Corrections

Title: "An Act creating crime of  
stalking."

BRU: Community Corrections

Component: \_\_\_\_\_

Sponsor: Representative Toohy

Requestor: House Finance

COMPONENT SERIAL NO. 1861

**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-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
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REVENUE FUND SOURCE:						
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**FUNDING:**

(Thousands of Dollars)

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

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

Please see attached fiscal analysis.

Prepared by: Dana LaTour, Special Assistant *Dana LaTour*

Division: Office of the Commissioner

Phone: 465-3376

Date: 3-8-93

Approved by Commissioner: Lloyd G. Rupp

Agency: Department of Corrections

Date: 3-8-93

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (FIN)

Revision Date: March 17, 1993  
 Title: "An Act creating the crimes of stalking in the first and second degrees..."  
 Sponsor: Representative Toohey  
 Requestor: Representative Toohey

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						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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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.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director

Division: Administrative Services Division

*Richard I. Pegues*

Phone: 465-3672

Date: March 17, 1993

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law

Date: March 17, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (FIN)

ANALYSIS (Continued):

The House Finance Committee substitute for HB 64 drops the provision in the earlier version of the bill, that would have doubled the period of probation that a court could sentence a convicted felon, that we commented on in our fiscal note of March 5, 1993. This change will avoid the possibility of increasing the probation caseload, and avoid causing a fiscal impact for the Department of Corrections. Otherwise, there are no other changes in the bill, and there should not be a fiscal impact for the Department of Law.

# FISCAL NOTE

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

No. 5  
 Bill Version: CSHB 64 (FIN)  
 (H) Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act creating the crimes of stalking in the first and second ..." BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 Sponsor: Rep. Toohey, Phillips, et. al  
 Requestor: House Finance COMPONENT SERIAL NO. 43

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

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

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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**FUNDING:**

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

**POSITIONS**

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

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

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McVey Public Advocate Phone: 274-1684  
 Division: Office of Public Advocacy Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Usura Date: 3/8/93  
 Agency: Department of Administration

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO: CSHB 64 (FIN)

Revision 3/19/93 Dept. Affected: Public Safety  
 Title: "An Act creating the crimes of stalking  
in the first and second degree." BRU: Alaska State Troopers  
 Sponsor: Representative Toohy Component: Detachments  
 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>	<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>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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REVENUE FUND SOURCE:						
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**FUNDING: (Thousands of Dollars)**

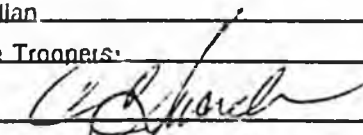
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME	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 is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 3/19/93  
 Approved by Commissioner:  Date: 3/19/93  
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

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STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: CSHB 64 (FIN)  
(H) Publish Date: 3/12/93

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act creating the crimes of stalking in the first BRU: Public Defender  
and second . . . ." Component: Public Defender  
 Sponsor: Reps Toohey, Phillips, et. al  
 Requestor: House Finance 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
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

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

POSITIONS

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

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

ANALYSIS: (attach a separate page if necessary.)

Prepared By: John Salemi, Public Defender Phone: 279-7541  
 Division: Public Defender Agency Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear User Date: 3/8/93  
 Agency: Department of Administration

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