

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8336

SENATE JUDICIARY



Anchorage Youth Court

P.O. Box 102735

Anchorage, Alaska 99510

Phone: (907) 274-5986 • Fax: (907) 272-0491

ASSENT AND WAIVER

(Please use ink.)

I, _____, as the parent/guardian of
(printed name of parent/guardian)

_____, hereby agree to allow him/her to participate in
(printed name of registering student)

the Anchorage Youth Court Program. I acknowledge that he/she is a volunteer of the program, and agree to the fullest extent allowable under the laws of Alaska that I absolve of all liability and waive all claims against Anchorage Youth Court, Inc. or any of its directors, officers, executive director, or volunteers for any reason that may arise in any way from his/her participation in the Anchorage Youth Court events or meetings.

Dated this _____ day of 199__

(Parent or Guardian Signature): _____

(Print Name): _____

(Daytime Telephone Number): _____

Please list two emergency contacts below:

(Name) (address) (phone)

(Name) (address) (phone)



Anchorage Youth Court
P.O. Box 102735
Anchorage, Alaska 99510
Phone: (907) 274-5386 • Fax: (907) 272-0491

September 12, 1992

Dear _____:

Congratulations and welcome to Anchorage Youth Court. Your class will begin _____
_____. It will meet at _____ in room _____
from _____ to _____. Your teacher(s) will be _____
_____.

YOUR ASSENT FORM MUST BE SIGNED IN INK BY YOUR PARENT OR GUARDIAN BEFORE YOU MAY
ATTEND CLASS. YOU MAY BRING IT WITH YOU TO THE FIRST CLASS.

Your class materials will be supplied by Anchorage Youth Court. Take good care of them,
because only the first set is free. It will be your responsibility to bring your materials,
homework and a pen or pencil with you to each class.

We look forward to working with you this year.

Sincerely

ANCHORAGE YOUTH COURT
BAR ASSOCIATION MEMBERS

GENERAL STUDENT INSTRUCTIONS

CLASS REQUIREMENTS:

1. Each week every student is expected to bring to class the student packet. Please bring a paper and a writing instrument to take notes with. Additionally, students should have a 3 ring binder or peechee type note book to keep notes, handouts and the student packet in.
2. Students are expected to read and familiarize themselves with the Anchorage Youth Court Constitution prior to coming to the first class.
3. Turn in your completed "Assent and Waiver" form at your first class.
4. To take the AYC bar exam you must first:
 - A. Have a signed "Assent and Waiver" form on file in the AYC office.
 - B. Attend at least 7 classes before November 22. Attendance will be taken weekly.
 - C. Do the assigned homework.
 - D. Actively participate in the class mock trial.

AYC MEMBERSHIP REQUIREMENTS:

1. Pass the AYC bar exam.
2. Be sworn into Anchorage Youth Court.
3. Once sworn in, members are required to attend two of every three AYC Bar Association Meetings. These are held at the Loussac Library the fourth Wednesday of each month from 6:30 to 8:00 or 8:30 P.M.

Alaska State Legislature

Legislative Research Agency



P. O. Box 7
Juneau, AK 99811-3100
Phone: (907) 144-3881
Fax: (907) 145-5351

October 25, 1990

MEMORANDUM

TO: Senator Jay Kerttula

FROM: Maureen Weeks MW
Legislative Analyst

RE: Teen Courts in Alaska and Other States
Research Request 90.364

You asked for information about teen courts (courts in which young defendants charged with minor offenses appear before juries of their contemporaries). This memorandum begins with information about teen courts in general and continues with brief descriptions of teen courts in Anchorage, Alaska; Hillsborough County, Florida; Denver, Colorado; Odessa, Texas; and Pasco County, Florida. For comparison, selected characteristics of the five model courts are presented in the attached table.

Background

Most youthful, first-time offenders who commit misdemeanors do not go to court, do not appear before a jury and are not sentenced by a judge. Instead, they receive a letter warning them not to offend again and they may be ordered to attend several hours of class for shoplifters or substance abusers. Teen courts are an effort to change this. They replace the "slap on the wrist" of a letter with the intimidating formality of a court appearance. Furthermore, they ask young people to appear before juries composed of other young people--tribunals which juvenile justice experts say tend to be harder on young offenders than adult jurors would be. By giving young, first-time offenders a glimpse of "real life" before judge and jury, these courts function as juvenile diversion, early intervention programs. Their purpose is to stop the progress from misdemeanor to felony by asking young offenders to take responsibility for their acts and accept sanctions determined by their peers.

Teen courts are composed of student volunteers who act as jurors and sometimes lawyers, clerks and bailiffs. Most are conducted by volunteer adult judges. Cases are generally screened. Defendants may be referred by the police, school officials, judges and, sometimes, private businesses. Most cases involve petty crimes. Teen courts are not recognized as courts of original or appellate jurisdiction.

**BACKGROUND
MEMORANDUM**

Senator Kerttula
October 25, 1990
Page 2

Although the five courts we have chosen as models for discussion in this memorandum differ in many ways, all offer teen-age defendants the right to trial by their peers--defined in these courts as trial by one's contemporaries. Three carry this principle further by also using young people as prosecutors, defense lawyers, clerks and bailiffs. One (the Anchorage Youth Court) expands the concept to its fullest by allowing students to preside as judges.

All five teen courts hold their proceedings in local courtrooms to impress upon defendants that the session is "real." How court is conducted varies, however. For example, while the East Pasco Juvenile Court stresses the authenticity of the hearing by seating teens as jurors in regular juvenile court proceedings (presided over by a sitting judge and argued by actual prosecutors and public defenders), the Anchorage Youth Court asks teen-age defendants to accept verdicts and fulfill sentences determined solely by what many young people consider the most formidable of forums--other teen-agers.

The role of the jury also varies with the court. Three of the five courts we studied accept only defendants who are willing to admit guilt. In these courts, the teen-age jury hears arguments before determining an appropriate sentence. Two teen courts, however, allow not-guilty pleas. In one (East Pasco County Juvenile Court), young jurors recommend a verdict and, where appropriate, a sentence to the sitting juvenile court judge. In another (Anchorage Youth Court), young people are allowed much more authority. Here, after listening to arguments by youthful prosecutors and defense lawyers, teen juries determine a verdict and teen judges pronounce sentence.

Teen courts differ from each other in other ways. The Odessa Teen Court, begun in 1983 and the oldest of the courts we studied, emphasizes family responsibility by requiring parents of teen-age defendants to attend parent training workshops. The Denver Teen Court, which opens next month, is designed to replace school suspension and expulsion (which many students perceive as rewards) with community service and restitution. The Hillsborough County Teen Court stresses a variety of sentencing options by allowing student jurors to impose modified house arrest and restrict a defendant's driving privileges.

The advantages of teen courts are several. First, they place young, first-time misdemeanants before a court, a forum they take seriously. Second, they allow young people to be tried and sentenced by juries of their peers. Third, they allow defendants to pay their debts to society without incurring criminal records. Fourth, sentences by youth courts encourage a sense of responsibility by stressing redress to the community. Fifth, teen courts allow young people--defendants and court officials--to learn court proceedings first hand. And sixth, teen courts reduce the volume of cases brought before regular juvenile courts.

Senator Kerttula
October 25, 1990
Page 7

Teen Courts

Anchorage Youth Court

Contact: Blythe Marston
Chair, Youth Court Advisory Committee
Bogle & Gates
907-276-4557 or

Sharon Leon, Coordinator
Anchorage Youth Court
274-5986 (between 1 p.m. and 5 p.m.)

The court is composed of middle school and high school students (ages 12 to 18) who volunteer as judges, jurors, bailiffs, clerks, prosecutors and defense attorneys. To be eligible to sit on the court, students must attend an eight-to-ten week class and pass a Youth Court Bar Examination. About 100 students are members of the bar, with another 200 in preparation classes where they are taught constitutional law, criminal law and procedure, ethics and advocacy. Legal advisors prepare student prosecutors and defense lawyers before their cases go to trial.

Judges are elected by members of the Youth Bar Association. They must have argued twice as prosecutors and twice as defense attorneys. The chief judge and assistant chief judge must have served at least once as associate judge.

Defendants, who are also between the ages of 12 and 18, are usually first offenders charged with petty crimes. They have been referred through the juvenile probation department, but they may be referred by other organizations, such as a store alleging shoplifting. Defendants and their parents must agree to allow the Youth Court to hear the case. Court proceedings insure them the right to be represented by a lawyer, the right to trial by jury, the right to cross-examine witnesses, the right against self-incrimination and the right to appeal.

At arraignment, defendants may plead guilty or not guilty. Student jurors and judges hear arguments before they determine the verdict and set the sentence.

Offenses include petty crimes, but the Youth Court has also heard felonies and civil suits.

Sentences include community service and restitution. A defendant who wishes to appeal a verdict or sentence must submit the appeal within three days of the sentence. Once a sentence is served satisfactorily, the record is expunged.

Miscellaneous: This court is the most developed of teen courts we studied. It is the only court in which students serve as judges, the only court in which student lawyers argue cases for defendants who have pleaded not guilty, and the

Senator Kerttula
October 25, 1990
Page 4

only court which requires students to pass a bar examination before qualifying to sit on the court.

The court has heard between 30 and 40 cases in the three years it has existed. (Juvenile probation officers have begun to refer cases increasingly frequently, according to Ms. Marston.) Trials are conducted at the Anchorage Courthouse in the evening.

The court is administered by two groups. A 16-member administrative board of lawyers, judges, police officers and students meets quarterly to oversee funding. This board is composed equally of adults and students. In addition, the Anchorage Youth Court Bar Association, composed of students who have passed the bar examination, meets weekly. The court was originally funded solely by the Anchorage Bar Association. Recently, funds have been appropriated from the Interest On Lawyers' Trust Association (IOLTA) funds. Private individuals also contribute to the court.

We will send under separate cover an Anchorage Youth Court video tape of the case of *State v. Pat O'Shea*, in which the defendant is accused of "minor assault" the night of March 23, 1989, after an evening of dancing at the Flaming Turban. The tape shows a three-judge panel presiding with youthful lawyers arguing before an attentive jury in procedures modeled after state court proceedings.

Hillsborough County, Florida

Contact: Bob Sleczkowski,
Director, Juvenile Services,
Thirteenth Judicial Circuit, Florida
813-272-5110

The court is composed of students from area high schools who volunteer to serve as prosecutors and defense attorneys, as well as bailiffs, court clerks and jurors. They must complete a three-hour orientation and training before they are allowed to participate on the court.

The judge is a volunteer from the Young Lawyers Association.

Defendants, who are between 13 and 17 years old, participate voluntarily in teen court. No defendant appears before court officials from his or her own high school. Defendants are referred by the police through the state's attorney. First-time misdemeanants who do not qualify for teen court hearings may go to juvenile arbitration.

Defendants are required by statute to plead guilty. Jurors hear arguments and decide the sentence.

Offenses heard in teen court include school offenses (e.g. battery, trespassing) and alcohol offenses.

Senator Kerttula
October 25, 1990
Page 5

Sentences last for five weeks. They include community service, modified house arrest, driver's license restriction, attendance at Alcoholics Anonymous meetings, written apologies, essays and jury duty. Sentences must be served exactly as determined by the teen court. After five weeks, the director of juvenile services rehears the case and, if the sentence is completed satisfactorily, the record is expunged.

Miscellaneous: The Hillsborough County teen court was established in March 1990. It meets Tuesday and Thursday nights in a county courtroom. Four cases are heard each night. Nineteen area high schools participate in teen court on a rotating basis (each school sends a teen court once every six weeks). Adult staff includes the teen court coordinator, counselor, a secretary and director of juvenile services for the Thirteenth Judicial Circuit.

Denver, Colorado

Contact: Jan Church
Chair, Teen Court Advisory Board
1700 Lincoln, Suite 4100
Denver, Colorado 80203
303-861-7000

The court is composed of students who volunteer to serve as jurors and prosecutors and defense attorneys.

The judge is a volunteer retired judge.

Defendants are students in trouble in middle school and high school who have committed acts for which they would be suspended or expelled from school (but not serious enough to warrant a criminal charge). They participate in teen court voluntarily, although court organizers ask school principals to "strongly encourage" young people to choose teen court over traditional punishments which keep them out of school.

To appear in court, a teen must sign a contract admitting guilt. Jurors hear arguments and set the sentence.

Offenses heard by teen court include stealing, fighting, trespassing and possessing alcohol on campus.

Sentences include community service, apology to the victim and restitution. Those who do not comply with the teen court sanction are referred to the school or the police department.

Miscellaneous: The purpose of this program is to replace traditional negative school punishment, such as suspension and expulsion, with sanctions which keep the student in school and encourage him or her to serve the community. It is an attempt to intervene before students commit more serious offenses for which

Senator Kerttula
October 25, 1990
Page 6

they will be charged. Teen court, sponsored by the Denver Bar Association, holds its first hearing in November 1990. This court replaces a teen court begun in the 1970s and disbanded in the mid-1980s.

Odessa, Texas

Contact: Natalie Rothstein
201 N. Grant
Odessa, Texas 79761
415-333-3641

The court is composed of teen-agers who volunteer to act as jurors, bailiffs, clerks, prosecutors and defense lawyers. A master jury trained in interview and assessment skills hears traffic cases; other juries hear miscellaneous cases. Student court officials are trained during pre-trial and post-trial meetings with the judge and the teen court director.

The judge is a volunteer retired district court judge.

Defendants are referred by police, local courts, the justice of the peace courts and the schools. They participate in teen court voluntarily. No defendant may go through the teen court twice.

To qualify for teen court, defendants must plead guilty. Jurors hear arguments before determining the sentence.

Offenses heard in teen court include traffic offenses and Class C and B misdemeanors, including some drug possession cases.

Sentences include community service and jury duty. Alcohol or drug offenders must take a chemical abuse workshop. The parents of all offenders must take a parenting workshop. If the sentence is satisfactorily completed, the record is labeled "dismissed through Teen Court."

Miscellaneous: The Odessa Teen Court was established in November 1983. It meets every Tuesday night in the county courthouse, with seven juries hearing 21 trials. One "master jury" hears 15 traffic cases each night, while six other juries hear other cases. Parent participation is mandatory. Parents must be present at the initial interview with the teen court director, as well as at the trial. In addition, parents must attend three-hour parenting workshops, taught by the court director and by her husband, a professor at the University of Texas. The director says this parent training is vital to the program's success. The program is sponsored by the Junior League of Odessa. Two-thirds of the program's funding is from the city council and one-third is from the schools.

Senator Kerttula
October 25, 1990
Page 7

Pasco County, Florida

Contact: Judge Lynn Tepper
East Pasco Juvenile Court
813-996-7341

The court is composed of students from the local high school (Zephyrhills High School). Jurors, selected from the school's law studies class, sit as the jury in actual cases heard by the East Pasco Juvenile Court. Jurors are trained by the law studies teacher, who discusses jury instructions in class, and by the sitting judge, who appears before the class once each semester to discuss the state's juvenile justice system. The judge also asks the state's attorney, the public defender and a pre-trial case worker to speak to the class. During court, jurors sit in the jury box. The trial proceeds as with a non-jury trial, except that all objections by lawyers must be made and argued on the floor where the jurors can hear them. Bench conferences, voir dire and objection to particular jurors are not allowed.

The judge is Circuit Court Judge Lynn Tepper (replacing Judge Maynard F. Swanson, Jr., who began the program).

Defendants are juveniles whose cases are on the regular docket; cases are not screened.

Defendants may plead guilty or not guilty. Jurors recommend the verdict by majority vote and, if the verdict is guilty, jurors also recommend sentencing. (Judge Swanson says his verdict differed from the jury's only once; he attributes that anomaly to his mistake in not properly instructing the jury.)

Offenses include any offense on the juvenile court docket.

Miscellaneous: This is the only court we studied in which jurors serve under a sitting judge. It has received national publicity on both the NBC Today Show and NBC Nightly News.

We attach an article describing the Pasco County Teen Court ("Pasco Juvenile Justice Program Wins National Fame," *Florida Bar News*, May '5, 1990); a description of the Hillsborough County Teen Court ("Teen Court " provided by Bob Sleczkowski, director of juvenile services in Tampa, Florida); and an article describing the Odessa Teen Court (Robert Rothstein, "Teen Court: A Way to Combat Teen-age Crime and Chemical Abuse," *Juvenile & Family Court Journal*, 1987, p. 1-4). In addition, we attach several documents from the Anchorage Youth Court. The documents include step-by-step instructions in how to set up similar courts in other areas ("Anchorage Youth Court: Trial by Peers") and the Anchorage Youth Court Constitution.

I hope this information is useful. If you have any questions, or want additional information, please contact this agency.



Alaska State Legislature

Official Business

State Capitol
Juneau, AK 99801-1182

QUESTIONS THAT ARE COMMONLY ASKED ABOUT YOUTH COURT LEGISLATION

QUESTION: What is the difference between a youth court program and other diversion programs?:

Juvenile intake refers youths to diversion programs and the youth court program is simply one other diversion program, similar to a "shoplifting class," for example. However, one unique characteristic which sets the youth court program apart from other diversion programs is that when a youth participates in a youth court proceeding, he/she is getting a taste of what adult court would be like; it is truly a mirror image of the adult court, except for the fact that the participants are peers.

QUESTION: Who decides whether or not a youth is referred to the youth court?

Under the Anchorage Youth Court Program, the youth and the parents must both agree to a youth court referral. In addition, the juvenile intake officer must also decide that this is an appropriate action.

QUESTION: What offenses are eligible for youth court proceedings?

Under current law, the juvenile intake officer, within the Department of Health and Social Services, Division of Family and Youth Services, is the sole referring agency. The juvenile intake officer decides on the disposition of all cases. When the Anchorage Youth Court Program was first established, only first-time misdemeanors were referred to the youth court; now, however, because the program has been so effective, the youth court does hear certain felonies - such as concealed weapons.

QUESTION: Could a youth court program hear a murder case?

Under the current provisions of law, it is technically possible but realistically, the juvenile intake officer would not refer such a case to the youth court, even if the youth and the parents requested this.

QUESTION: What is the role of the Court System in a youth court program?

In Anchorage, the Court System provides the space for the youth court to hold its proceedings. Otherwise, the Court system is not

COMMONLY ASKED
QUESTIONS

directly involved in juvenile offenses; it is totally within the purview of the Division of Family and Youth Services

QUESTION: What groups need to be involved in order to truly effect community support?

The Department of Health and Social Services, the Alaska Court System, the Alaska Bar Association, the local bar association (if there is one), law enforcement agencies, the school district, parent organizations.

QUESTION: How old are the youths that are referred to a youth court program and how old are the youth court attorneys, jurors, judges, etc.?

Any youth under the age of 18 is eligible for referral to the program and youths under the age of 18 may volunteer to sit on the youth court. In this way, it is really peer adjudication.

QUESTION: Don't the youth courts tend to "go easy" on offenders because they are peers?

While that might seem to be a reasonable assumption, in reality, the youth court generally tends to be extremely "tough on crime" and has a reputation for being extremely strict in its sentencing.

QUESTION: What is the youth court recidivism rate and how does this compare to other proceedings?:

Out of a total of 69 cases before the Anchorage youth court, only four juveniles were arrested for a second offense. This compares with an approximately 50% recidivism rate for minor offenders.

QUESTION: Why does the legislation only specify "nonprofit corporations" as recipients of the \$5,000 grant?

House Bill 195 was modelled after the Anchorage Youth Court Program which was administered as a non-profit corporation. This was done to ensure the protection of the corporate veil, among other things. There is no reason that the legislation could not be expanded to include other entities.

QUESTION: Would House Bill 195 conflict or undermine legislation which requires minors to be treated as adults for certain offenses?

No, the youth court program only applies to minors in juvenile court and if legislation is enacted requiring a minor to be tried in adult court, he/she would no longer be within the purview of juvenile intake.

QUESTION: How will youth court programs work for the rural areas or small Alaskan communities?

House Bill 195 has been developed specifically in an attempt to make it possible for rural communities to establish youth court programs. Of course, each program may well be different. Under this legislation, it would be possible for one small community to have its own youth court program or for several villages to "link together" and form a youth court program to serve several communities.

QUESTIONS: Under the grant program established under the Department of Community and Regional Affairs, how will one community be selected over another, assuming there is a limited amount of money?

First of all, under House Bill 195, an applicant will only be able to receive a one-time only grant for setting up a youth court program. The Department will establish criteria by regulation. One of the criteria will have to be for the applicant to show a 50% in-kind or monetary match.

Alaska State Legislature



While in Fairbanks
119 N. Cushman St.
Suite 203
Fairbanks, AK 99701
907-456-8161

While in Juneau
State Capitol
Juneau, AK 99801-1182
907-465-2327
907-465-4713

Representative Joe Sitton

SECTIONAL ANALYSIS CS HOUSE BILL 195 (Fin) - Youth Courts

This analysis outlines the principal features of CS House Bill 195 (Fin), a measure authorizing youth courts in order to provide for peer adjudication of minors charged with violations of state laws or municipal ordinances. The bill also proposes to broaden (and rename) the use of the community legal assistance grant fund as a source of financial support for new youth courts.

The major difference between the House Finance CS and the original bill consists in the elimination of references to the court system. It is the juvenile intake unit of the Department of Health and Social Services, rather than the court system, which provides for waivers to diversion programs and it was at the request of the court system that the references to the court system have essentially been deleted.

Section 1 and 2. Sets out the purpose and background of this legislation.

Section 3. This bill section, the measure's principal operative provision, adds a new section to codified law. AS 18.05.100 is added as a part of the title concerned generally with health and safety matters. The section authorizes establishment of youth courts. Specifies that only one youth court may be established within the boundaries of a municipality. Subsection (c) establishes nonprofit corporations as entities which may serve as youth courts.

Bill Sections 4-8 rename and revise the objectives of the existing Community Legal Assistant Grant Fund.

Section 4. AS 44.47.200 [COMMUNITY] LEGAL ASSISTANCE AND JUVENILE JUSTICE GRANT FUND.

The amendments proposed to AS 44.47.200 by this bill section change the name of the fund and authorize use of money in the fund to help nonprofit corporations start operations as youth courts.

Section 6. The addition of AS 44.47.210(b) proposed by this bill section permits nonprofit corporations planning to operate youth courts to apply for a grant

from the fund, direct that the grant be matched, but permit waiver of the match requirement under the circumstances noted.

Section 8. The addition of AS 44.47.220 (b) proposed by this bill section sets limits on the amount that may be awarded as a grant from the fund to a nonprofit corporation planning to operate a youth court, and limits on the proper use by the grantee of the money received by the grant.

Sections 5 and 7. The changes made by these two bill sections are technical changes to existing law made in light of the proposed additions set out in bill sections 4, 6, and 8

Alaska State Legislature

While in Fairbanks
119 N. Cushman St.
Suite 203
Fairbanks, AK 99701
907-456-8161



While in Juneau
State Capitol
Juneau, AK 99801-1182
907-465-2327
907-465-4713

Representative Joe Sitton

Sponsor Statement

House Bill 195 - relating to the establishment of youth courts
by

Representative Joe Sitton

House Bill 195 establishes the authority for the establishment of a youth program as a juvenile diversion program under the Department of Health and Social Services. Under the provisions of this legislation, youths under the age of 18 who have allegedly committed an offense may choose to go through a youth court proceeding instead of through the regular court system, provided they have the approval of the juvenile intake authorities and the consent of their parents.

While other states have youth (or teen) courts, in Alaska, only Anchorage has developed such a program; it has been in existence since 1989. It has enjoyed a tremendous success and is highly supported by the community. Out of a total of 69 cases, only four juveniles were arrested for a second offense.

Perhaps one of the greatest reasons for its success is the close working relationship between the different agencies involved: the Department of Health and Social Services, the Alaska Court System, the Alaska Bar Association, the Anchorage Bar Association, the school district, and law enforcement agencies.

In the Anchorage program, cases are referred by juvenile probation officers. Referrals may also be made by other entities, such as a store alleging shoplifting.

Defendants and their parents must agree to allow the Youth Court to hear the case and the Youth Court must accept jurisdiction. Court proceedings insure them the right to be represented by a lawyer, the right to trial by jury, the right to cross-examine witnesses, the right against self-incrimination, and the right to appeal.

The court is composed of students under 18 years of age who volunteer as judges, jurors, bailiffs, clerks, prosecutors and defense attorneys. To be

eligible to sit on the court, students must attend an 8-10 week class and pass a youth court bar examination. Legal advisors are available to assist student prosecutors and defense lawyers in preparing their cases for trial.

House Bill 195 would provide a similar mechanism for other communities in Alaska, both rural and urban. Each community would be able to tailor the youth court system to its own unique needs and resources. A great deal of effort has gone into crafting legislation which would provide a structure for a youth court program while at the same time providing maximum flexibility for communities to create a program which would work best for them.

This legislation provides for the establishment of a youth court program under the aegis of the Department of Health and Social Services; it is this department's juvenile intake officers who have jurisdiction over juvenile offenders.

In addition, the legislation amends AS 44.47.200, the community legal assistance grant fund to provide for "juvenile justice" grants to communities and to non-profit corporations to establish and organize a youth court program in a community. The grant amount may not exceed \$5,000 and the grant must be matched by cash or in-kind contributions. The burden of success thus lies with a community's commitment.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3367 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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


MEMORANDUM

May 3, 1994

SUBJECT: Draft SCS CSHB 195 (Judiciary) (Work Order No. 8-LS0599\M)

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee
ATTN: Kevin Sullivan

FROM: Jack Chenoweth
Legislative Counsel



From our several conversations, I've produced this draft. New in it are bill section 4 and the effective date provision.

Bill section 4 ties to the "access to agency records" provision of the Conference Committee Substitute for Senate Bill 54 (juvenile justice and waiver of juvenile jurisdiction), about to be transmitted to the governor. Youth court proceedings are, as we discussed, a form of diversion program under the department's informal resolution authority (that is itself more fully spelled out in CCS SB 54). If the information is accessible by the public under AS 47.10.093, added by CCS SB 54, then, under this proposed change, it becomes a record that is accessible though developed in the context of youth court proceedings in this bill. Among things that may be accessible is "information regarding a case . . . as may be necessary to inform [a] victim about the disposition or resolution of a case involving a minor." See proposed AS 47.10.093(b)(6).

The proper way to handle this is to leave in place in AS 18.55.100(f) the reference to AS 47.10.090 (in the event CCS SB 54 does not become law, since current AS 47.10.090 covers both court and agency records) but to substitute--as this does--the reference to AS 47.10.093 (if CCS SB 54 becomes law) with its focus on agency records. As noted above, despite the name, the youth court mechanism is a form of diversion or informal resolution that only tangentially involves the Alaska Court System.

Sections 10 and 11 of the bill are also new, and are included to make sure that the parts of the two relevant measures fit together properly. Section 11 is an effective

Senator Robin Taylor
May 3, 1994
Page 2

date provision; its inclusion amounts to a technical change for which waiver of the Uniform Rules applicable to bill title changes in the second house is not needed. See Uniform Rule 35 (2d sentence).

JBC:gc
94-309.glc

Enclosure

Revision Date: 1/24/94 Dept. Affected: Community & Regional Affairs
 Title: An Act Authorizing Youth Courts BRU: _____
 Component: _____
 Sponsor: Sitton. Ulmer
 Requestor: Sitton. Ulmer COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current (FY⁹⁴~~93~~) Impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Ronald Henderson Director Phone: 465-4708
 Division: Administrative Services Date: 1/24/94
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 1/24/94
 Agency: Community & Regional Affairs

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

For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 195 (HES)

Revision Date: 01/14/94 Dept. Affected: Health and Social Services
 Title: An Act authorizing youth courts for peer adjudication of minors... BRU: Family & Youth Services
 Sponsor: Representatives Sitton, Ulmer Component: Southeastern, Southcentral, & Northern Regions
 Requestor: House Judiciary Committee COMPONENT SERIAL NO. 0258,0254,0255

Expenditures/Revenues: (Thousands of Dollars)

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

FUND SOURCE (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Deborah R. Wing, Director *Deborah R. Wing* Phone: 465-3191
 Division: Division of Family & Youth Services Date: 01/14/94
 Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S. *Margaret R. Lowe* Date: 01/14/94
 Agency: Department of Health & Social Services

PREPARER TO PROVIDE ALL DIS
For further distribut

LEGISLATIVE OFFICE
Office

1993 Village Participation Conference

Resolution # 93-13

ENTITLED: URGE THE ALASKA LEGISLATORS TO SUPPORT THE FUNDS FOR YOUTH PROGRAMS AND TEEN CENTERS.

WHEREAS, the Alaska Villages lack funds for youth programs and teen centers; and

WHEREAS, the youth get into alcohol and drug abuse and have no place to hang out; and

WHEREAS, alcohol and drug abuse prevention has been introduced in schools, but is not effective enough; and

WHEREAS, the youth are depressed and committing suicide.

Now, therefore, be it

RESOLVED: that the 1993 Village Participation Conference hereby urges the Alaska Legislators to support the funds for youth programs and teen centers in every Alaska Village.

ADOPTED this 26th day of February, 1993 by the Village Participation Conference in Juneau, Alaska.

Dewey Skan, Chairman
1993 Village Participation Conference

ANCHORAGE YOUTH COURT CONSTITUTION

* (As Revised Spring, 1991)

Preamble

Municipality of Anchorage youths, recognizing the importance of respect for the law, and firmly believing that acceptance of responsibility is essential toward being conscientious citizens, hereby establish the Anchorage Youth Court as a practical application of their responsibility to themselves and their community.

Statement of Purpose

Anchorage Youth Court is intended to provide benefits of citizenship to the youth of the Municipality of Anchorage. It shall do so by providing an alternate adjudication and sentencing procedure for young offenders. It shall offer an opportunity for those who make mistakes early in their lives to constructively pay their debt to society without incurring a criminal record. It shall foster an atmosphere of respect for the law through the principle of judgement by peers and restitution for wrongs committed.

The Anchorage Youth Court will emulate adult proceedings so as to provide an opportunity for youths to learn about criminal justice. Unless an action or procedure is specifically addressed by this constitution, the general principles of court proceedings shall apply as far as practicable.

Article I: Organization

Section 1. The Anchorage Youth Court is not recognized as a court of original or appellate jurisdiction by the laws of the State of Alaska. All cases tried must be referred to the Anchorage Youth Court by a Referring Authority as defined in Section 2, below, (hereinafter "Referring Authority"), and all referrals will be made solely at the discretion of the appropriate Referring Authority. The Anchorage Youth Court's findings and recommendations in a case shall be returned to the Referring Authority before final disposition.

Section 2. For purposes of the Anchorage Youth Court, a Referring Authority shall include but is not limited to the Department of Health and Social Services and all recognized courts within the State of Alaska.

Section 3. The Anchorage Youth Court shall have only such power to enforce a sentence as is delegated by the Referring Authority. A person tried by the Anchorage Youth Court is not discharged from the jurisdiction of the Referring Authority until a recommendation of discharge of the case has been made by the Anchorage Youth Court to the Referring Authority, and the individual is discharged. Failure to comply with the sentence imposed by the Anchorage Youth Court will result in an automatic return of the case to the Referring Authority.

Section 4. The Anchorage Youth Court shall have jurisdiction over only those individuals who are charged with delinquent conduct occurring in the Municipality of Anchorage and are enrolled in grades 7 through 12 and/or are 12 to 18 years of age. Younger

defendants may be considered upon special agreement and with the understanding that the defendant will be adjudicated by 7 - 12 graders.

Section 5. Anchorage Youth Court shall consist of one or more organized courts.

Article II: Administrative Board

Section 1. Composition. The Administrative Board shall consist of residents of the Municipality of Anchorage. An equal number of members shall represent the youth community and the adult community, each to serve for a term of one year. Nomination of Board members shall be made by a nominating committee comprised of the existing Administrative Board (except that the first nominating committee shall be the establishing constitutional committee). Any member of the Anchorage Youth Court Bar Association may nominate a member for a position on the Administrative Board, and that nomination must be given to the nomination committee within ten (10) days of the due date of nominations. The nominating committee shall be formed no less than 30 days prior to the due date of the list of nominees.

Youth nominees shall be selected from and represent one from each school which has students participating in Anchorage Youth Court. Youth nominees must maintain active status and attend Executive Board Meetings. Adult nominees may be selected from and represent the following:

- 1) the judiciary;
- 2) juvenile probation;
- 3) the field of law enforcement;
- 4) the field of education;
- 5) the Anchorage Bar Association
- 6) the adult community at large; or
- 7) parents of youths over whom the Anchorage Youth Court has

jurisdiction.

The list of nominees shall be given to the Anchorage Youth Court Coordinator who shall provide a written notice of the appointees within 15 days of receiving the list of nominees.

Section 2. Duties. The Administrative Board shall promote the purpose of this constitution. The duties of the board shall include, but are not limited to fiscal matters, appointing staff members, maintaining liaisons between the Anchorage Youth Court and law enforcement agencies of the State of Alaska and the Municipality of Anchorage, as well as general supervision of the Anchorage Youth Court. The Administrative Board may adopt any lawful resolution necessary to further the purposes of the Anchorage Youth Court not in conflict with the Anchorage Youth Court Constitution.

Section 3. Meetings. The Administrative Board shall meet at least once each semester with advance notice.

Article III: Advisory Staff

Section 1. The advisory staff of the Anchorage Youth Court shall be appointed by the Administrative Board and shall consist of a Coordinator and a Legal Advisor, and such other staff deemed necessary. The advisory staff shall report to the Administrative Board. The term of service for an advisory staff member shall be one year.

Section 2. In selecting a Coordinator, special consideration shall be given to applicants with some interest, experience, or education in law. It shall be the responsibility of the Coordinator to review and approve, together with the Legal Advisor, referrals to the Anchorage Youth Court; to establish, oversee, and direct such procedures and perform such duties as are required to ensure the smooth and proper operation of the Anchorage Youth Court network; to maintain accurate, current records of costs and expenses of the Anchorage Youth Court; and to act as liaison between the Anchorage Youth Court Bar Association and membership, and the Administrative Board and the Anchorage court system at large. In so far as elected positions are concerned, the Coordinator shall be responsible for receiving nominations, preparing and distributing ballots, and publishing election results.

Section 3. Legal Advisor. The Legal Advisor preferably should be an attorney. The duties and responsibilities of the Legal Advisor shall be to review and approve, together with the Coordinator, referrals to the Anchorage Youth Court; and to generally confer with, advise, and direct Anchorage Youth Court staff and members as requested, required, or needed.

Article IV: Membership and Positions

Section 1. Membership. To qualify as a member of the Anchorage Youth Court, a person must be enrolled in a grade between 7 and 12 in a public or private school in the Municipality of Anchorage, and must successfully complete a training course and pass an Anchorage Youth Court Bar examination. In order to qualify as an active member, a member must have attended a majority of Anchorage Youth Court Bar Association meetings held within the last three months. A member may avoid inactive status, when necessary, by making prior arrangement with the coordinator for pending absence. Upon return, the member may re-establish his or her standing by participating in a Youth Court function. All members are subject to the rules and guidelines established by the ethics committee.

Section 2. Nomination. The Administrative Board shall be responsible for appointing nominating committees from time to time. A nominating committee shall be responsible for compiling a list of nominees for positions of the administrative board and for obtaining written confirmation from those nominees of their willingness to serve. Except as provided in Article II, Section 1, and Section 5, below (Special Elections), a nominating committee shall be formed in a reasonable time prior to the due date of a final list of nominees. The final list of nominees shall be due no later than three weeks prior to the election and shall be given to the Coordinator. Nomination for candidacy for elected office shall be made verbally at the Bar Association meeting prior to the meeting at which elections are held. In order to become a candidate for office, one must be an active Bar Association member and within two (2) weeks of nomination submit a written letter of intent outlining expected duties, responsibilities, and level of commitment if elected.

Section 3. Election. Members of the Anchorage Youth Court shall elect from among members nominated pursuant to Article IV, Section 2, one Chief Judge, one Assistant Chief Judge, a pool of at least six Associate Judges, one Clerk, one Anchorage Youth Court Bar Association President, one Vice President, one Treasurer, and one Secretary. The term of each of these offices shall be one year. Elections shall be held annually in February at a meeting announced two weeks in advance in writing to all Anchorage Youth Court Bar Association members. A simple majority of those present and

voting shall be required for election to any office. Officers will assume positions the first of April, following election.

No one shall hold more than one elected position at any time. A vacancy of an elected position may be filled by the appointment of any active bar member, including members holding elected positions at the time. To assume the appointed position on a permanent and elected basis as outlined in Section 5 below, the said officer must resign his first position. If any member elected to a position is unable to fill that position, a new vote must be taken as soon as practicable.

Voting shall be by secret, written ballot. Each voter may cast one vote for each position to be elected. All ballots shall be placed by the voter in a sealed ballot box. At the conclusion of voting, the ballot boxes shall be delivered to the graduating seniors, who shall count and tally all ballots under the supervision of the Coordinator and report the results to the membership.

Section 4. Removal. Any person elected may be removed from office by a two-thirds majority of the votes cast by the members of Anchorage Youth Court, but only after the grounds therefor have been presented to the person in writing and the person has had an opportunity for a hearing before the Anchorage Youth Court Bar Association membership at a meeting set for that purpose.

Section 5. Vacancies. In the event of a vacancy in an elected position, the officers of the Anchorage Youth Court Bar Association (i.e., Bar Association President, Bar Association Vice President, Bar Association Secretary) shall have the authority to appoint a temporary replacement, if necessary, until an election can be held to fill the position. But no appointment shall be for more than 45 days, and an appointment shall end immediately upon election of a person to fill the position. Elections shall be held in the same manner as provided in Sections 2 and 3, above.

Section 6. Anchorage Youth Court Bar Association President. Any attorney who is at least 16 years old or at least a junior in high school is eligible to hold the office of Bar President. The Anchorage Youth Court Bar Association President shall chair all meetings of the Anchorage Youth Court Bar Association, assign attorneys to Youth Court cases, supervise all other business of the Bar Association with the assistance of the Coordinator, and serve as the student representative of the Anchorage Youth Court to the community. The Anchorage Youth Court President is authorized to create and fill any position he or she deems necessary. The Anchorage Youth Court Bar Association may remove appointees by 2/3 vote of the members present. The President shall preside over the executive board, which will consist of officers or their representatives, appointees and representatives from each active committee. This board will meet with the coordinator at a regularly scheduled time.

Section 7. Anchorage Youth Court Bar Association Vice President. Any attorney who is at least 16 years old or is a junior in high school is eligible to hold the office of Bar Association Vice President. The Anchorage Youth Court Bar Association Vice President shall serve in the absence of or at the request of the Anchorage Youth Court President, and in that event shall serve in place of and with the same power and authority of the Anchorage Youth Court Bar Association President.

Section 8. Secretary. Any member who is at least 16 years old or is at least a junior in high school is eligible to hold the office of Secretary. The Secretary shall take minutes and keep recordings of all Anchorage Youth Court Bar Meetings, maintain all

current membership records and attendance records, and assist the Anchorage Youth Court Bar Association President. The Secretary shall publish the minutes of all Anchorage Youth Court Bar Association Meetings and keep Anchorage Youth Court Bar Association members informed of the time and date of upcoming meetings.

Section 9. Treasurer. Any member who is at least 16 years old or is at least a junior in high school is eligible to hold the position of Treasurer. Duties of the Treasurer are, but not limited to; control of student funds, maintain and keep current records, provide treasurer's reports at all Anchorage Youth Court Bar Association meetings.

Section 10. Judges. All judges must be enrolled in grades 10, 11, or 12, and must have served at least two times as prosecuting attorney and at least two times as defense attorney, unless candidates with these qualifications are not available. In case the above qualifications cannot be met, the nominee must have been involved in at least one case. Three Associate Judge positions must be filled by students with fall enrollment in grades 10 or 11.

To qualify for the position of Chief Judge or Assistant Chief Judge, a person must have been an Associate Judge at least once.

The Assistant Chief Judge shall serve in the absence of or at the request of the Chief Judge, and in that event shall serve in place of and with the same power and authority as the Chief Judge.

Section 11. Clerk. Any member in grade 7-12 may be elected to the position of Clerk. Under the supervision of the coordinator, the Clerk shall set the Anchorage Youth Court calendar, and send out timely court notices to the Referring Authority and defendants as required. The Clerk of the Anchorage Youth Court shall be responsible for tape-recording all court proceedings, maintaining the tape library of the Anchorage Youth Court, keeping the records of all the Anchorage Youth Court proceedings, maintaining defendant files, and generally assisting the Chief Judge. The Clerk may appoint such assistants, not to exceed three (3), as the Clerk deems necessary.

Section 12. Bailiff. Any member in grade 7-12 may be appointed to the position of Bailiff. Bailiff shall be appointed by the Bar President on a case-by-case basis. The Bailiff shall swear-in witnesses, assist in setting up the courtroom, and assist the Chief Judge in maintaining order and decorum in the courtroom.

Section 13. Attorneys. Any member in grade 9-12 may be appointed as an Attorney. Under special circumstances and/or exceptional evaluations, and after consultation with the Chief Judge, the Coordinator may approve the appointment of an Attorney who is in grade 7 or 8.

The selection of attorneys to serve on cases that are referred to the Anchorage Youth Court shall be made by the Bar Association President on a rotating, case-by-case basis. Attorneys shall zealously represent their client to the best of their ability in accordance with the Alaska State Court and American Bar Association rules.

Section 14. Jurors. All youth in grades 7 through 12 and enrolled in a public or private school in the Municipality of Anchorage are eligible to serve as jurors, including any Anchorage Youth Court member.

The method for selecting jurors shall be established by the Administrative Board. The Coordinator shall be responsible for maintaining a list of available jurors.

Jurors are bound to maintain the confidentiality of the defendant and all court proceedings.

Article V: Referral Procedure

Section 1. After a preliminary investigation, the Referring Authority may refer a case to the Anchorage Youth Court. The Referring Authority will meet with the defendant and his/her custodial parent or guardian and explain the purpose of Anchorage Youth Court and its procedures, including sentencing. After an opportunity to confer with counsel, the defendant will be given the choice of proceeding to Anchorage Youth Court or being handled through regular channels, which may include a formal court hearing and a record.

Section 2. If the defendant and his/her custodial parent or guardian agrees to proceed with Anchorage Youth Court, they will sign a voluntary agreement, with the understanding their case will be held open for one hundred twenty (120) days to complete the process. This voluntary agreement will also state that failure to comply with Anchorage Youth Court and other established conditions, once agreed to, may result in having their case handled in formal court proceedings.

Section 3. Anchorage Youth Court proceedings will begin with the referral from the Referring Authority. The Coordinator will receive a copy of the signed voluntary agreement to participate in Anchorage Youth Court, available arrest reports and other related documents. If the case is not accepted by Anchorage Youth Court, the case will be returned to the Referring Authority, together with all documents relating to the case.

Article VI: Anchorage Youth Court Procedure

Section 1. Proceedings in Anchorage Youth Court shall be conducted as far as practicable in substantial conformity with rules and statutes governing adult proceedings in the Alaska court system. The rules and statutes shall be applied and modified as necessary to promote the prompt and just resolution of cases and legal education.

Section 2. At all times, Anchorage Youth Court proceedings will be conducted to ensure that the defendants' rights guaranteed by the Alaska and United States constitutions are protected, including but not limited to the following:

1. the right to be represented by an Anchorage Youth Court attorney;
2. the right to trial by jury;
3. the right to call and cross-examine witnesses;
4. the right against self-incrimination; and
5. the right to appeal.

At all times, Anchorage Youth Court proceedings will be conducted to ensure confidentiality.

Section 3. The Chief Judge or his appointee shall preside over all courtroom proceedings of the Anchorage Youth Court, with the assistance of two associate judges.

Section 4. If after an Anchorage Youth Court court proceeding, the defendant pleads guilty or is found guilty at trial, the judges will determine an appropriate sentence at a sentencing hearing to be held within five (5) days of the verdict or plea. Sentencing shall be in accordance with the informal sentencing guidelines established by the Referring Authority and the Anchorage Youth Court Judges.

Section 5. The Chief Judge shall submit to the Coordinator the findings, recommendations, and sentence of the Anchorage Youth Court. The Coordinator shall submit the findings, recommendations, and sentence to the Referring Authority before final disposition of the case.

Section 6. If the defendant chooses to exercise his right to appeal either a verdict or a sentence, he shall submit a written statement, including reasons for appeal, to the Chief Judge within three (3) days of the sentence. The Chief Judge shall appoint a three-member appeals panel.

There are seven grounds for appeal:

1. verdict not in conformity with Alaska Constitution, statutes or rules;
2. verdict not supported by the evidence;
3. sentence not supported by the evidence;
4. improper legal procedure;
5. inadequate legal representation;
6. new evidence discovered which substantially affects the case; and
7. plea not voluntarily given.

If the appeals panel finds for the defendant, the case shall be remanded for a new trial.

Section 7. The Coordinator shall oversee the defendant's compliance with the Anchorage Youth Court sentencing order (s) and provide status reports to the Referring Authority as required.

Article VII: Voting and Adoption of Rules

Section 1. All members of the Anchorage Youth Court may vote concerning Anchorage Youth Court matters.

Section 2. All matters put to a vote shall be decided by a simple majority of those present unless otherwise specified in this constitution.

Section 3. The Anchorage Youth Court Bar Association may pass rules deemed necessary to its proper functioning, as long as such rules do not conflict with this constitution or the bylaws.

Article VII: Amendments and Ratification

Section 1. In order to ratify and amend this constitution, a constitution committee shall publicize the proposed constitution or the proposed revisions or amendments and provide notice of the voting date and place in a reasonable manner best calculated to reach the largest number of qualified voters as defined below.

Section 2. A qualified voter, for the purpose of ratification and amendment of this constitution, shall be any active member of Anchorage Youth Court Bar Association.

Section 3. The constitutional committee shall have the responsibility of preparing and distributing ballots for voting. Each qualified voter may cast one secret, written ballot for each proposal. The constitution committee will be responsible for counting and tallying of all ballots.

Section 4. A majority of all persons in grades 7 through 12 voting on the proposal (s) shall be required for ratification and amendment.

Section 5. The constitution committee shall promptly announce the outcome of the vote.

* Amendments passed March and April, 1991 in bold type.

HB

212

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

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

MEMORANDUM

March 9, 1993

SUBJECT: House Bill 212 -- sectional analysis (Work Order No. 8-LS0780\A)

TO: Representative Eileen MacLean

FROM: Jack Chenoweth
Legislative Counsel

You have introduced House Bill 212 and, through staff, have asked me to prepare a sectional analysis of the measure.

To reduce or eliminate disparity in criminal sentences, the criminal procedure code, AS 12, subjects offenders convicted of certain specified crimes to presumptive sentences. Presumptive sentences may be extended or reduced if the sentencing judge, by a decision based on clear and convincing evidence, identifies factors in aggravation or factors in mitigation of the sentence. AS 12.55.155(c) identifies a series of factors to be considered by the court in aggravation or extension of a presumptive sentence. Bill section 1 amends AS 12.55.155(c)(18) by adding a new subparagraph under which the court may consider, as a factor in aggravation of a criminal sentence based on a conviction for sexual abuse of a minor in any degree (AS 11.41.434 - 11.41.440), evidence that the victim of the offense resided in the same household as the offender or evidence that the offender occupied a position of authority over the victim. The bill section offers a definition of the phrase "position of authority" by cross-reference to a definition of that term in the criminal code.

The criminal procedure code also provides for referral of certain criminal sentences by the sentencing judge to a three-judge sentencing panel. Under AS 12.55.165(a)

(a) If the defendant is subject to sentencing under [a presumptive sentencing provision] and the court finds by clear and convincing evidence that manifest injustice would result from . . . imposition of the presumptive term, whether or not adjusted for aggravating or mitigating factors, the court shall enter findings and conclusions and cause a record of the proceedings to be transmitted to a three-judge panel for sentencing under AS 12.55.175.

SECTIONAL ANALYSIS

Representative Eileen MacLean

March 9, 1993

Page 2

However, subsection (b) of that section, added in 1992, limits the ability of the sentencing court to make a referral of a sentencing decision to a three-judge review panel in cases involving the application of certain aggravating factors. The amendment to AS 12.55.165(b) made by bill section 2 places the aggravating factor added in the previous bill section to the list of aggravating factors whose application would not allow a sentencing judge to make a referral to a sentencing panel.

JBC:pl

93-176.plm

North Slope Borough School District



RESOLUTION 93-12
AMENDMENT TO TITLE ELEVEN
OF THE ALASKA STATUTES

WHEREAS the North Slope Borough School District is strongly committed to the education and safety of its students; and

WHEREAS the NSBSD and the people of Alaska entrust the education and safety of their students to the teachers of the State; and

WHEREAS a breach of that trust involving the sexual contact of a student by a teacher causes irreparable harm to the student and society and, further, undermines the educational mission of the NSBSD and the State of Alaska; and

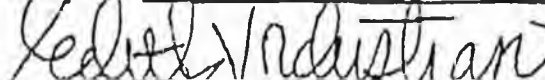
WHEREAS the NSBSD does not believe the criminal code sufficiently addresses sexual contact between a teacher and a student and, further, that likely punishments for teachers who have sexual contact with students who have been entrusted to them by the State and their families neither sufficiently reflects the trauma suffered by the student and society nor the intolerance which the people of the State of Alaska have for such conduct.

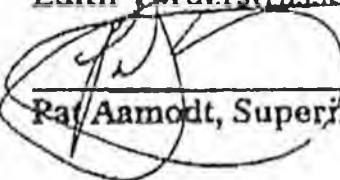
NOW, THEREFORE, BE IT RESOLVED that the NSBSD Board of Education strongly urges the Legislature of the State of Alaska to amend the criminal code (Title 11) so as to designate sexual contact of a student by a teacher as sexual abuse of a minor in the first degree; and

BE IT FURTHER RESOLVED that the Superintendent shall take such action as is necessary to make known and urge the immediate adoption of this position of the NSBSD to the Legislature and the Association of Alaska School Boards and the Alaska Association of School Administrators

Introduced: 2/09/93

Adopted: 2/09/93


Edith Vorderstrasse, Acting President, Board of Education


Pat Aamodt, Superintendent

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 212 (Jud)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to a factor in aggravation
of the presumptive" BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: Rep. MacLean
 Requestor: (S) Jud COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____
 Approved by Commissioner: Nancy Bear Usara Date: 1/28/94
 Agency: Administration

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

For further distribut

'lice

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 212 (Jud)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to a factor in aggravation
of the presumptive" BRU: Public Defender Agency
 Component: Public Defender Agency
 Sponsor: Rep. MacLean
 Requestor: (S) Jud COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

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

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____
 Approved by Commissioner: Nancy Bear Usera Date: 1/28/94
 Agency: Administration

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

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CS HB 212 (JUD)

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Sentencing: aggravating factors BRU: Trial Courts
 Components: _____
 Sponsor: Reps. Maclean, Ulmer
 Requestor: _____ COMPONENT SERIAL NO. 768

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)


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


POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 01/31/94

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 01/31/94
 Agency: Alaska Court System

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

FISCAL NOTE

BILL NO. CSHB 212 (JUD)

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: December 14, 1993
Title: "An Act relating to a factor in aggravation of the presumptive term of a criminal sentence."
Sponsor: Representative MacLean
Requestor: Governor's Office

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

EXPENDITURES/REVENUES:

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

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

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

FUNDING:

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

POSITIONS:

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

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

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

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

Phone: 465-3672
Date: December 14, 1993
Date: December 14, 1993

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

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 212 (JUD)

ANALYSIS CONTINUATION:

The Judiciary Committee Substitute for HB 212 amends AS 12.55.155(c) to provide that when the offense was felony sexual abuse of a minor and when the offender occupied a position of authority in relation to the victim, the sentencing court shall consider these factors and may aggravate the presumptive term set out in AS 12.55.125. The bill also amends AS 12.55.165(b) to provide that a court may not refer a case to a three judge panel based on the defendant's potential for rehabilitation if the court finds that either of these same factors is present. These sentencing provisions occur after the conviction of a defendant and, therefore, there should not be a fiscal impact for the Department of Law.

217

HB

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 214 (JUD)

ANALYSIS CONTINUATION:

The Judiciary Committee Substitute for HB 214 amends the state statute providing for the confidentiality of juvenile records, AS 47.10.090, to permit the parent or legal guardian of a minor to disclose records or other information about the minor to certain state officers for review or use in their official capacity. Under the bill, the persons to whom disclosure is made would be prohibited from disclosing the confidential or privileged information to anyone about the minor who is not authorized to receive the information. A person who violates this safeguarding provision would be guilty of a misdemeanor, and upon conviction could be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or both. The bill would also amend Alaska Child in Need of Aid Rule 22, by providing an exception to the confidentiality of information pertaining to a minor who is subject of Child in Need of Aid proceedings. The Department of Law would not usually be involved in this process and, consequently, there should not be a fiscal impact for the department.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: CSHB 214 (JUD)
(S) Publish Date: 1-20-94

Revision Date: 01/18/94 Dept. Affected: Health and Social Services
 Title: An Act allowing the parent or legal guardian of a minor to disclose certain records and information... BRU: Family & Youth Services
 Sponsor: House Rules Committee Component: Southeast, Southeast, Northern & Central Office
 Requestor: Senate HES COMPONENT SERIAL NO. 0258,0254,0255,0259

Expenditures/Revenues:

(Thousands of Dollars)

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

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGES IN REVENUES						
----------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: None

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact to the department if this bill were to become law. The department would not be required to provide any additional administrative or line services as a result of this bill.

Prepared by: Deborah R. Wing, Director *Deborah R. Wing* Phone: 465-3191
 Division: Division of Family & Youth Services Date: 01/18/94
 Approved by Commissioner: Margaret R. Lowe *Margaret R. Lowe* Date: 01/18/94
 Agency: Department of Health & Social Services

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

For further distribution information call the Governor's Legislative Office

Alaska State Legislature



Official Business

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720

Representative Ramona Barnes

POSITION PAPER

HB 214

HB 214 amends AS 47.10 which will allow a parent or legal guardian of a minor who has a complaint against DFYS to voice this complaint to the Commissioners of H&SS, Administration, Public Safety, the Ombudsman, the Attorney General, their legislators, the Governor and Lt. Governor who may review this information in their official capacity. These public officials will still be prohibited from disclosing information to anyone not authorized to receive said information.

This bill was introduced to eliminate a problem that came to light in 1991. At the request of a constituent I questioned the way DFYS was taking care of two children placed under their authority. The guardian ad litem in this case went to court and was granted a gag order preventing my constituent, the parent of these children, from talking to me about her concerns regarding the care her children were receiving in foster care. At no time were any confidential documents involved in her complaint.

This "gag order" violated my constituent's right to freedom of speech and her right to convey her displeasure with a state agency to me, her elected representative, and the Governor and Lt. Governor. My constituent's attorney has filed an appeal with the Alaska Supreme Court, and Legislative Council has agreed to participate in this appeal by filing an amicus brief which has been accepted by the court.

I ask for your support of HB 214 to aid in maintaining open lines of communication between our constituents and their elected representatives.

Rep. Barnes'
Position Paper



State of Alaska
Ombudsman

Duncan C. Fowler

Reply to:

- P.O. Box 102636
Anchorage, AK 99510-2636
(907) 277-0848
(800) 478-2624
- P.O. Box 113000
Juneau, AK 99811-3000
(907) 485-4970
(800) 478-4970
- P.O. Box 74358
Fairbanks, AK 99707-4358
(907) 452-4001
(800) 478-3257

MEMORANDUM

DATE: April 1, 1993

TO: Representative Brian Porter, Chair
House Judiciary Committee

FROM: Duncan C. Fowler, Ombudsman

SUBJ: Ombudsman's Position
Committee Substitute for House ~~Bill~~

BACKGROUND

This bill attempts to resolve problems with judicial interpretation of AS 47.10.090 which came to light last year. That statute by its terms restricts access to court records and prohibits disclosure of information and records which are prepared by federal, state or city agencies when those records pertain to a minor.

This statute has been interpreted by a superior court judge to prohibit a parent involved in a Child In Need of Aid (CINA) proceeding from providing specific information on the matter to their legislator, other elected officials or the ombudsman. While the court's order was eventually modified to allow the parent to provide information to the ombudsman, the limitations on discussions with elected officials remained in place.

This matter is being appealed to the Alaska Superior Court by the mother involved in the CINA case. The Legislative Council did authorize the submission of an Amicus brief supporting a parent's right to contact their elected officials in such matters

EFFECT OF PROPOSED LEGISLATION

This committee substitute provides parents or guardians an affirmative right to provide information about state actions involving a minor to elected officials or other selected state officials who would be in a position to correct any allegedly inappropriate acts by the state agencies involved. The substitute prohibits re-disclosure of confidential information by these officials.

It is broad enough to overcome any disclosure prohibitions in other state statutes, regulations and court rules such as CINA Rule 22 and Delinquency Rule 27 which, along with AS 47.10.090, also prohibit disclosure of information.

While it stops short of affirmatively exempting parents and guardians from coverage of disclosure restrictions or specifically allowing parents to disclose information not obtained from agency records to persons other than state officials, it clarifies that it should not be interpreted to limit existing parental rights by implication.

Memorandum from the
Ombudsman

Representative Porter

- 2 -

April 1, 1993

OMBUDSMAN'S POSITION

The ombudsman supports the position that parents should be allowed to contact state officials to seek relief from agency actions that have such a significant impact on their personal lives. That cannot be done effectively unless parents are allowed to share information with those officials.

The ombudsman believes this committee substitute is preferable to the original bill. It provides an affirmative right and, unlike the original bill, it does not limit existing rights by implication, i.e. that parents and guardians may only provide information to selected state officials, even if that information was obtained from non-confidential sources.

HB

225

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

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

MEMORANDUM

March 9, 1993

SUBJECT: Notice of certain appropriations (Work Order No. 8-LS0784A)

TO: Representative Sean Parnell

FROM: Tamara Brandt Cook *TBC*
Director

Under AS 43.23.028 the stub attached to each permanent fund dividend check is required to contain notice of the amount by which each dividend was reduced due to each appropriation from the dividend fund. Under subsection (b) appropriations to the crime victim compensation fund or to the Department of Corrections are not subject to that notice requirement to the extent that the appropriations do not exceed the total amount that would have been paid to felons if they had been eligible for a dividend. This draft adds to subsection (b) the council on domestic violence and sexual assault, so, under this draft, appropriations for the three purposes would enjoy the exemption from the notice requirement.

You have asked whether there are any legal problems presented by this draft. I cannot think of any.

TBC:gc
93-217.glc


MEMORANDUM

STATE OF ALASKA DEPARTMENT OF REVENUE

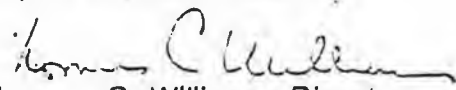
TO: Cheryl Frasca, Director
Division of Budget Review
Office of Management and Budget

DATE: March 10, 1993

FILE: ~~100014000001/94~~

THRU: Rod R. Mourant 
Assistant Commissioner
Department of Revenue

TELEPHONE: (907) 465-2323

FROM: 
Thomas C. Williams, Director
Permanent Fund Dividend Division

SUBJECT: FY 94 DIVIDEND FUND
AMOUNT AVAILABLE
FOR APPROPRIATION
TO PUBLIC SAFETY
AND CORRECTIONS

The total amount of 1992 dividends that would have been paid in FY 93 to individuals who were ineligible to receive dividends because they were incarcerated for a felony conviction had they been eligible is computed as follows:

<u>FY 92 Incarcerated Felons:</u>	<u>Number</u>	<u>PFD Amount</u>	<u>Total Amount</u>
1. whose most recent 1988-1991 application prior to their statutory ineligibility was:			
a. payable	2,566		
b. potentially payable	20		
2. who were potentially payable as first time filers in 1992	<u>44</u>		
	<u>2,630</u>	x <u>\$915.84</u>	= <u>\$2,408,659</u>

This is the total amount that can be appropriated to the Department of Public Safety, Violent Crimes Compensation Fund and the Department of Corrections and avoid disclosure under the provisions of AS 43.23.028(b). Any additional amount appropriated from the dividend fund will be disclosed on the 1993 dividend check stub as required by AS 43.23.028(a).

The number of individuals was computed by matching the felon's list provided by the Department of Corrections in the summer of 1992 with the 1988 through 1992 PFD masterfile.

Cheryl Frasca
March 10, 1993
Page 2

We counted only those incarcerated felons who were more likely than not to be eligible if they had not been incarcerated in FY92. We excluded individuals on Corrections' list who:

1. were later determined not to have been incarcerated in FY92 for a felony conviction; or
2. had not filed for any year 1988-1992; or
3. whose most recent 1988-1990 application prior to their statutory ineligibility had been denied for another reason.

This was the method that I advised legislative staff that we would be using when we discussed the specific language of AS 43.23.028(b) to be included in SB 98 late in the 1991 legislative session. It is the only reasonable way to ensure that *ineligible nonresidents* incarcerated in Alaska for a felony conviction *are not included* in the computation without trying to do a specific eligibility determination on each of the 3,342 individuals on Corrections' list.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF BUDGET REVIEW

WALTER J. HICKEL, GOVERNOR

P.O. BOX 110020
JUNEAU, ALASKA 99811-0020
PHONE: (907) 465-3568

March 18, 1993

The Honorable Ron Larson
The Honorable Eileen Maclean
Co-Chairs
House Finance Committee
State Capitol
Juneau, Alaska 99801-1182

Dear Committee Co-Chairs:

One of the recommendations of the Finance Committee's subcommittee for the Department of Public Safety was to change the composition of the Council on Domestic Violence and Sexual Assault's (CDVSA) FY 94 operating budget funding. The proposal is to supplant \$300,000 in general funds with \$300,000 from the permanent fund dividends of incarcerated felons who are ineligible to receive a dividend under AS 23.005(d).

The dollar amount of the recommendation was based on information verbally provided by the Department of Revenue. For the committee's reference, attached is the department's written verification of the availability of these funds. As you will note, the department's calculations indicate an additional \$504,700 is estimated to be available in FY 94. This amount is in addition to the \$1,604,000 proposed in the Governor's budget and the \$300,000 proposed by the subcommittee.

As Representative Parnell advised the committee, it is not necessary to disclose use of these dividend funds on individual dividend checks when appropriated to the crime victim compensation fund or to the Department of Corrections. Uses such as to CDVSA will require disclosure on individual checks, or amendment of AS 43.23.028(b), the dividend's public notice requirement.

The Honorable Ron Larson
The Honorable Eileen Maclean
March 17, 1993
Page 2

Should you have any questions or need additional information, please let me know.

Sincerely,

Cheryl Frasca
Director

Attachment

cc: Representative Sean Parnell

Senator Steve Frank
Senator Drue Pearce
Senate Finance Co-Chairs

Commissioner Richard Burton
Department of Public Safety

J. Shelby Stastny, Director
Office of Management and Budget

Tom Williams, Director
Division of Permanent Fund Dividend
Department of Revenue

Alaska State Legislature

REPRESENTATIVE
SEAN R. PARNELL



P.O. BOX 240622
ANCHORAGE, ALASKA 99524

While in Juneau
STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-2995

HOUSE OF REPRESENTATIVES

HOUSE BILL 225 Notice of Appropriations on PFD's By House Finance

SPONSOR STATEMENT

As the Public Safety finance subcommittee proceeded in the budget process, we explored various funding options for agencies within the Department. This bill developed as a vehicle to provide the Council on Domestic Violence and Sexual Assault with partial funding outside the general fund stream. The subcommittee and the Finance committee believe felons' permanent fund dividends are a pertinent source for the Council's work.

Existing statute requires each permanent fund check to provide notice of the amount by which each dividend was reduced due to any appropriations from the dividend fund.

Currently, exemptions to this requirement are afforded to appropriations to the crime victim compensation fund and the Department of Corrections as long as these appropriations *do not exceed the total amount that would have been paid to felons had they been eligible for a dividend.*

This bill amends statute to include the Council on Domestic Violence and Sexual Assault with the exemptions to the violent crimes compensation fund and the Department of Corrections.

SPONSOR STATEMENT

STATE COMMITTEE REPORT

DATE: 4/5/93

FURTHER: FINANCE

DATE TURNED INTO OFFICE: 21 April 93

JUDICIARY Committee considered HOUSE BILL NO. 225

"An Act relating to notice of certain appropriations from the dividend fund."

and recommends:

- replace with _____ CS _____ (_____)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
Revenue	3-17-93	✓	

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

Dave Douley

Paul Smith

Rub Halford NO REC

Suzanne Little No Rec

Chris L. Taylor Do Pass
 Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 225

Revision Date: _____ Dept. Affected: Revenue
 Title: An Act relating to notice of certain appropriations from the dividend fund BRU: Permanent Fund Dividend
 Component: Permanent Fund Dividend
 Sponsor: House Finance Committee
 Requestor: House Finance Committee COMPONENT SERIAL NO. 981

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING:

(Thousands of Dollars)

FUNDING	FY94	FY95	FY96	FY97	FY98	FY99
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

POSITIONS	FY94	FY95	FY96	FY97	FY98	FY99
FULL-TIME						
PART-TIME						
TEMPORARY						

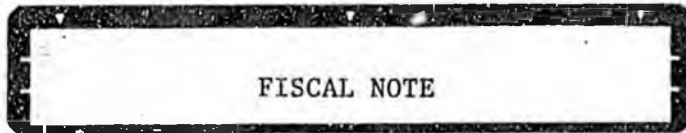
Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary)

None necessary.

Prepared by: Thomas C. Williams Phone: 465-2323
 Division: Permanent Fund Dividend Date: March 16, 1993
 Approved by Commissioner: [Signature] Date: 1/17/93
 Agency: Department of Revenue

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



HB

231

Alaska State Legislature
House of Representatives

COMMITTEES:
HEALTH, EDUCATION
& SOCIAL SERVICES
JUDICIARY
STATE AFFAIRS

SPECIAL COMMITTEES:
MILITARY & VETERANS AFFAIRS
OIL & GAS



INTERIM:
EAGLE CENTER, SUITE 141
EAGLE RIVER, AK 99577
PHONE (907) 694-8944
FAX 694-8945

SESSION:
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3777

Representative Pete Kott

SPONSOR STATEMENT
CS FOR HOUSE BILL 231(FIN)

AS 12.55.155(c) establishes a series of aggravating factors relevant to presumptive sentencing. Subsection (18) of this statute addresses aggravating factors to be used in sentencing people convicted of sex crimes. As the law now reads, there is an aggravating factor when a defendant is convicted of a sex crime against a minor and has engaged in the same or similar conduct against a minor. Also, there is an aggravating factor when the defendant is convicted of sexual assault (or unlawful exploitation of a minor) and previously engaged in sexual assault (or unlawful exploitation of a minor). However, the law does not currently provide an aggravating factor pertaining to a potential situation whereby a defendant is subject to presumptive sentencing for sexual abuse of a minor and he previously committed sexual assault against an adult. Section 1 of this bill corrects this problem.

Pursuant to Section 1, in all cases where a defendant is subject to presumptive sentencing for a felony sex crime, any other conduct which violates AS 11.41.410 through AS 11.41.460 constitutes an aggravating factor.

It is the sponsor's intent that only conduct other than the specific act which is the basis for a conviction shall constitute an aggravating factor. That is to say, if event "A" is the basis for a given conviction, then event "A" can not be the basis for aggravating the sentence.

Section 1 of CS For HB 231 has a collateral effect of enlarging the class of cases which, pursuant to AS 12.55.165(b), may not be referred to the Three Judge Sentencing Panel.

It respectfully is asserted that this bill captures the essence of a recommendation made by the Alaska Sentencing Commission. Additionally, it corrects an unfortunate gap now embodied in existing law.



Alaska State Legislature
House of Representatives

COMMITTEES:
HEALTH, EDUCATION
& SOCIAL SERVICES
JUDICIARY
STATE AFFAIRS

SPECIAL COMMITTEES:
MILITARY & VETERANS AFFAIRS
OIL & GAS



INTERIM:
EAGLE CENTER, SUITE 141
EAGLE RIVER, AK 99577
PHONE (907) 694-8944
FAX 694-8945

SESSION:
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3777

Representative Pete Kott

SECTIONAL ANALYSIS
CS FOR HOUSE BILL 231 (FIN)

Section 1, which amends AS 12.55.155(c)(18)(B) and deletes AS 12.55.155(c)(18)(C), expands the scope of other sex crimes as an aggravating factor in the presumptive sentencing of sex offenders. As amended, AS 12.55.155(c)(18)(B) establishes an aggravating factor when the defendant is subject to presumptive sentencing for a felony crime "...specified in AS 11.41.410 - 11.41.455 and the defendant has engaged in the same or other conduct prohibited by a provision of AS 11.41.410 -11.41.460 involving the same or another victim;". It may be noted that Section 1 of CS HB 231 does not require that the conduct utilized as an aggravating factor be reduced to a conviction. And, it does not require that said conduct have occurred prior to the crime for which the defendant is being sentenced.

It may be noted that Section 1 of this bill has the collateral effect, pursuant to AS 12.55.165(b), of expanding the class of cases which may not be referred to the Three Judge Sentencing Panel



FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: CSHB 231(FIN)

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An act relating to aggravating and mitigating factors at sentencing" BRU: Alaska State Troopers
 Sponsor: Rep. Kott Component: Detachments
 Requestor: S. JUD COMPONENT SERIAL NO. 799

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

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

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1006 GF MHTA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

No significant fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allen Phone: 283.5891
 Division: Alaska State Troopers Date: 2/16/94
 Approved by Commissioner: _____
 Agency: Richard I. E

PREPARER TO PROVIDE ALL DATA FOR FURTHER DISTRIBUTION

FISCAL NOTES

LEGISLATIVE OFFICE
e Office

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 231 (Fin)

Revision Date: _____	Dept. Affected: <u>Administration</u>
Title: <u>An Act relating to aggravating and mitigating factors at sentencing</u>	EAU: <u>Office of Public Advocacy</u>
Sponsor: <u>Rep. Kott</u>	Component: <u>Office of Public Advocacy</u>
Requestor: <u>(H) Rules</u>	COMPONENT SERIAL NO. <u>43</u>

Expenditures/Revenues

(Thousands of Dollars)

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

FUND SOURCE

(Thousands of Dollars)

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

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: <u>Brant McGee, Public Advocate</u>	Phone: <u>274-1684</u>
Division: <u>Office of Public Advocacy</u>	Date: _____
Approved by Commissioner: <u>Nancy Bear Ucera</u>	Date: <u>2/5/94</u>
Agency: <u>Administration</u>	

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

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 231 (Fin)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to aggravating and mitigating BRU: Public Defender Agency
factors at sentencing" Component: Public Defender Agency
 Sponsor: Rep. Kott
 Requestor: (H) Rules COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Public Defender
 Division: Public Defender Agency
 Approved by Commissioner: Nancy Bear Usher
 Agency: Administration

Phone: 264-4400
 Date: _____
 Date: 2/10/94

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

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 231 (FIN)

Revision Date: February 15, 1994
Title: "...previous conduct constituting a sexual offense may be used as an aggravating factor..."
Sponsor: Representative Kott
Requestor: Representative Kott

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

EXPENDITURES/REVENUES:

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

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

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

FUNDING:

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

POSITIONS:

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

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

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

Richard I. Peques

Prepared by: Richard I. Peques, Director

Phone: 465-3672

Division: Administrative Services Division

Date: February 15, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General

Agency: Department of Law

Date: February 15, 1994

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

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 231 (FIN)

ANALYSIS CONTINUATION:

The House Finance Committee version of HB 231 provides that previous conduct constituting a sexual offense may be used as an aggravating factor at sentencing if the victim was either an adult or a minor. The existing statute limits the use of such previous conduct as an aggravating factor to cases where the victim was a minor. This is a sentencing provision that takes place after a defendant has been convicted, and therefore the bill will not have a fiscal impact on the Department of Law.

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO.: CSHB 231(FIN)

Revision Date:	<u>April 26, 1994</u>	Dept. Affected:	<u>Corrections</u>
Title:	<u>Sex Offense/Aggravating Factors</u>	BRU:	<u>All</u>
Sponsor:	<u>Rep. Kott</u>	Component:	<u>All</u>
Requestor:	<u>S. JUD</u>	Component Serial #:	<u>694-1884</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXP.	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	.	.	.	.	.

CAPITAL EXP	500.0
-------------	-------	---	---	---	---	---

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF	500.0	.	.	.	.	.
1005 GF/Program Receipts						
1006 GF/MIITIA						
Other						
TOTAL	500.0	.	.	.	.	.

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

POSITIONS

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

ANALYSIS: There will be an indeterminate impact on the prison system, with a demand for at least 5 additional beds.

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

Phone: 465-4643/786-2147
 Date: 4/26/94
 Date: 4/26/94
 Page 1 of 2

The bill expands the ability of the court to aggravate a presumptive sentence for a sex offense when the perpetrator has previously been convicted of a sex offense.

Assumptions

1. The department has been unable to locate any data to indicate the frequency of occurrence of the behaviors addressed in the bill. However, since the bill expands the circumstances under which a sentence can be aggravated, it is assumed that there will be some increase in sentence lengths for sex offenders as a result of the bill.
2. There are approximately 500 sex offenders incarcerated in state facilities, or 182,500 inmate-days being served per year for sex offenses. Since the actual sentence length could increase up to 100% due to aggravation, but the actual rate of occurrence of the aggravator is unknown, the department conservatively estimates an aggregate 1% increase in prisoner-days for sex offenders. That would result in an additional 1,825 days of incarceration per year. The system would need to add 5 beds to accommodate these prisoner-days (1,825 divided by 365.)
3. There would be no increased operating costs in FY95 since the bill aggravates sentences which would already occur. Indeterminate operating costs are reflected in the following years, since it is unknown when each sentence would have ended without the aggravation.
4. The correctional system has been operating over its emergency capacity for over a year. A motion to hold the department in contempt of court has been filed and may lead to \$1,000 per day fines if upheld. Crisis levels of overcrowding present safety hazards as well as legal problems and potential fines. The system cannot absorb additional prisoners without additional resources.
5. The cost for constructing an average state correctional bed is approximately \$100,000. Capital costs could be reduced or eliminated by contracting for beds, but contract beds available in Alaska are limited to minimum or community custody offenders and the state is unaware of any out-of-state beds for inmates with higher than medium custody. Capital costs might also be reduced by increasing staffing and programs, in combination with some facility reconfiguration, at existing facilities. Because there are a number of crime bills pending before the legislature, it is not possible for the department to identify where bedspace would be expanded until the total increased demand for beds is known.



Alaska Sentencing Commission

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501 (907) 279-2526 FAX (907) 276-5046

*James V. Gould, Chair
Philip R. Volland, Vice Chair*

*Jayne E. Andreen
Richard L. Burton*

*Charles E. Cole
Hon. Beverly W. Cutler*

*Sen. Steve Frank
Lloyd G. Rupp*

*JoAnn Holmes
Hon. Warren W. Matthews*

*Gigi Filcher
John Salemi*

*Duane S. Udland
Rep. Fran Ulmer*

March 25, 1993

Representative Pete Kott
Alaska House of Representatives
State Capitol
Juneau, AK 99811

RE: House Bill 231

Dear Representative Kott:

Thank you for sponsoring HB 231, "an act relating to aggravating and mitigating factors at sentencing." This bill enacts recommendations made by the Alaska Sentencing Commission in its 1991 annual report.

Section 1 of the bill is similar to the commission's recommendation that the list in AS 12.55.155(c) be expanded by adding an aggravating factor for sex offenders who have committed a prior sex offense. The commission found that repetitive sex offenders present such a high risk to the public that more prison time is necessary than current presumptive sentences would impose. The commission found that sex offenders usually offend multiple times and/or against multiple victims and are rarely caught the first time they offend. They often escape conviction or are allowed to plead to lesser conduct because sex offenses are difficult to prove, especially when the victims are children. With Class B offenses in particular, the commissioners felt that there was a need to impose sentences long enough to allow completion of a two-year sex offender treatment program.

In 1992, the legislature added an aggravator to be applied when the offense is one specified in AS 11.41.410-.425 and .455, and the defendant has previously engaged in conduct covered by one of those sections involving the same or another victim. AS 12.55.155(c)(18)(c). For some reason, defendants convicted of sexual assault and unlawful exploitation of a minor are not covered if their prior conduct includes sexual abuse of a minor, and defendants convicted of sexual abuse of a minor are not covered if their prior conduct includes sexual assault of an adult. HB 231 closes the gap in coverage and is consistent with the recommendations of the Sentencing Commission.

Representative Pete Kott
March 25, 1993
Page 2

Section 2 of HB 231 adds a mitigating factor when the defendant's prior offense was of a less serious class than the present offense. This mitigating factor was part of the original list adopted by the legislature, but was repealed in 1982. (There is a parallel aggravating factor for when defendant's prior conduct was of a more serious class of offense). The legislature's rationale for eliminating the mitigating factor was that it could reward criminals who in fact were developing an escalating pattern of seriousness in their criminal behavior. However, the commission felt that it should be reinstated, since there are times when it is necessary to remove rigidity from the system.

For example, a person might be convicted of a minor felony, such as theft of a snowmachine or bootlegging, as a young adult. If that person is convicted of first-degree assault ten years later, he or she will serve the same term as an offender with a recent manslaughter conviction. A large number of young adults commit low-level property offenses, and the commission felt that these offenses should not be treated as the equivalent of serious felonies committed by a more mature individual. To answer the concern expressed by the legislature in repealing this mitigating factor originally, the commission recommended that the legislative history reflect that this factor should not be applied if it would reward an escalating pattern of behavior or criminal career. Section 2 is consistent with the commission's recommendations.

Section 3 of HB 231 appears to maintain the status quo of the 1992 amendment which forbid referral of a case to the three-judge panel based on the defendant's potential for rehabilitation if the court finds certain aggravating factors, in this case prior sexual abuse of a minor. The commission took no position on this legislation last year, but your amendment appears to be consistent with last year's amendment.

We would urge the legislature to adopt HB 231. Please feel free to call if we can be of assistance.

Sincerely,



Marcia Vandercook
Staff Attorney

MV:pjs

HB

236

<u>Paper</u>	<u>Circulation</u>
Alaska Journal of Commerce	3,200
Aleutian Eagle	3,800
All Alaska Weekly	4,000
Anchorage Daily News	79,938
The Aniak Paper	250
Arctic Sounder	1,900
Arctic Star	7,000
Barrow Sun	1,000 +
Borough Post	1,000 +
Bristol Bay News	3,000
Bristol Bay Times	3,000
Capital City Weekly	16,000
Chilkat Valley News	1,100
Chugiak-Eagle River Star	4,250
Copper River Country Journal	1,500
Cordova Times	1,750
Daily Sitka Sentinel	2,905
The Delta Paper	1,300
Eagles Call	2,500
Fairbanks News-Miner	19,700
Frontiersman	6,600
Homer News	4,000
Island News	1,600
Juneau Empire	8,000
Ketchikan Daily News	4,700
Kodiak Daily Mirror	3,800
Mukluk News	700
Nome Nuggett	3,200
North Pole Independent	3,000
The Northern Light	5,000
Peninsula Clarion	5,000
Petersburg Pilot	1,800
Seward Phoenix Log	2,000
Skagway News	750
Sourdough Sentinel	7,500
Tundra Drums	6,300
Valdez Pioneer	4,200
Valdez Vanguard	1,800
Valley Sun	10,000
Village Voice	4,300
Wrangell Sentinel	1,500

APPENDIX 3

NPP Publishing [Ⓞ]	1,480
Pacific Rim Publishing*	3,383
Peninsula Clarion	29,172
Petersburg Pilot	9,027
Ptarmigan Ptimes	700
Senior Voice	1,523
Skugway News	536
Seward Phoenix Log	7,190
Tundra Drums	25,586
Tundra Times	38,267
Valley Sun	4,584
Valdez Vanguard	8,344
Wrangell Sentinel	6,910
Alaska Subtotal	1,199,909
New York Times	1,563
Portland Daily Journal	15,272
Portland Observer	405
Portland Oregonian	2,004
Seattle Times	18,560
Wall Street Journal	4,123
Washington Post	1,532
Non-Alaska Subtotal	43,457
TOTAL	\$ 1,243,366

Source: AKSAS

* Air Alaska, Alaska Journal of Commerce, and others.

Barrow Sun, Borough Post, Aleutian Eagle, etc.

Ⓞ Cordova Times and Valdez Vanguard.

Note: Appendices 2 and 3 totals are not equal, apparently due to AKSAS entry errors or the inclusion in Appendix 3 data of subscription costs.

SENATE COMMITTEE REPORT

DATE: 4/20/93

FURTHER:

DATE TURNED INTO OFFICE: 4/23/93

JUDICIARY Committee considered CS FOR HOUSE BILL NO. 236(RLS) am

"An Act relating to notices for the sale of certain real property."

and recommends:

- replace with _____ CS _____ (_____)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
House L+C	3-29-93	✓	

Appropriation No Fiscal Note

DO PASS:

Richard Halford

George H. ...

OTHER RECOMMENDATIONS:

Suzanne K. Little, No Recs

Adrian L. Taylor NO Rec

Chair: Signature and Recommendation

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



SPONSOR STATEMENT

CSHB 236 (Rules)(am)

Alaska is one of the few (perhaps only) states where publication of foreclosure notices occurs in metropolitan daily newspapers (e.g., Juneau Empire, Anchorage Daily News, Fairbanks News-Miner, and Nome Nugget). In most other jurisdictions, required legal notices are published in daily or weekly newspapers catering in part to legal, banking, and real estate professionals, that provide the most efficient dissemination of notice at a cost of publication substantially lower than that charged by larger circulation metro dailies. In these other jurisdictions, state statutes typically define with specificity the requirements and qualifications for newspapers suitable for public notice. Such statutory qualifications address editorial content, publication schedule, minimum paid circulation, and other criteria to ensure that the widest potential audience with interests in public notices may be reached at the most competitive cost.

Currently, no such statutory specificity exists in Alaska. For notice of sale on execution (foreclosure sale) our statute states that such notice shall be published in a "newspaper of general circulation." Therefore, definition of "general circulation" is subject to interpretation.

Because of this lack of specificity, title companies, banks, and attorneys are very cautious about using other than the metropolitan dailies for fear of potential litigation. The result has been to create de facto monopoly publishing entities in each of Alaska's four judicial districts.

CSHB 236 (Rules)(am) would provide the specificity currently lacking in our statutes and would establish a needed level of comfort for title companies and others to consider alternatives to the publishing status quo.

It is important to note that CSHB 236 (Rules)(am) in no way changes the status of existing metro dailies which would continue to qualify as papers of general circulation. It would merely provide the statutory certainty that other papers also qualify, thereby allowing the advertiser of foreclosure notices the flexibility to choose the paper best suited for the purpose at the most competitive price.

In its original form, HB 236 addressed "newspapers of general circulation," in Title 1 for the purpose of defining that term. However, it was brought to our attention by the Attorney General's office that by using Title 1, over 80 statutory references to "newspapers of general circulation"

SPONSOR STATEMENT

would have been affected. Since the primary objective of the bill is to address foreclosure notices, the Attorney General suggested addressing Title 9, Notice of sale on execution instead. This was done with the committee substitute.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

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

MEMORANDUM

March 15, 1993

SUBJECT: Considerations in draft relating to newspapers of general circulation (Work Order No. 8-LS0852\A)

TO: Representative Bill Hudson,
Chair, House Labor and Commerce Committee
Attn: Lynda

FROM: Theresa L. Bannister ^B
Legislative Counsel

This memo accompanies the draft of the bill that you requested relating to newspapers of general circulation.

The two-year publication requirement makes your bill vulnerable to an equal protection challenge. The outcome of a challenge is unclear. To reduce the chances of a challenge succeeding, the legislative record on the bill should indicate that the two-year period, as opposed to, for example, a one-year period, is needed to ensure that the newspaper is sufficiently established. The record should also indicate the reasons for this conclusion.

With regard to the declaration that a publication qualifies as a newspaper of general circulation for a particular area, you may wish to consider having an executive branch agency provide this service. However, please keep in mind that, whether the executive or judicial branch provides this service, the determination will have to be made for each specific statute due to the "relevant area" factor. In other words, the publication cannot make one request for a determination and thereafter be considered a "newspaper of general circulation" for all the statutes. Since the definition of "newspaper of general circulation" is tied to a "relevant area," each determination will have to be made based on the relevant area that the governing statute or regulation is addressing.

Regulations are covered by the definition in this bill because AS 01.10.060 applies to the "laws of the state," and "laws" includes regulations.

If I may be of further assistance, please advise.

TLB:pl
93-195.plm

LEGAL SERVICES MEMO

HOMER NEWS

3482 Landings Street

Homer, Alaska 99603-7999

(907) 235-7767

April 2, 1993

Ms. Linda Giguere
Legislative Aid
HOUSE LABOR AND COMMERCE COMMITTEE
Juneau, AK

HOMER NEWS	
FAX TRANSMITTAL MEMO	
TO: <u>L. GIGUERE</u>	PAGES
FAX#: <u>465-6790</u>	<u>1</u>
FROM: <u>KAREN</u>	
PHONE: 235-7767	FAX#: 235-4199

Re: House Bill 236

Dear Linda:

In response to the latest amendment to House Bill 236, I would like to clarify, further, one other point.

Under Section I (F) it reads: "has an average paid circulation or distribution of at least 1,000 copies of each issue."

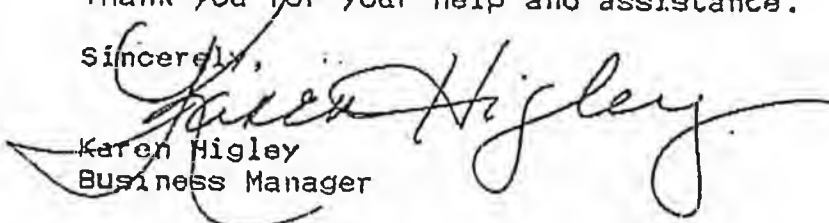
Paid circulation is a way to gauge what percentage of the population is reading the newspaper. It is generally accepted that if someone pays for a newspaper they will read it. Paid-circulation newspapers with a second-class mailing permit can verify their circulation and readership (based on accountability of sales) by the U. S. Postal Service or independent firms such as the Audit Bureau of Circulation. Free distributed or third-class mailed newspapers are not required to be audited by the postal service nor any other independent firm. Therefore, no independent accountability is available.

Paid circulation is also a way to guarantee that the government's dollars are being spent effectively.

My concern is that Section I (F) should be changed to reflect: "has an average paid circulation of at least 1,000 copies of each issue." Leaving the word "distribution" without specifying "paid distribution" would imply that any newspaper with any type of distribution would qualify.

Thank you for your help and assistance.

Sincerely,


Karen Higley
Business Manager

ALASKA NEWSPAPERS, INC.
P.O. BOX 100319 ANCHORAGE, ALASKA 99510
Phone: (907) 279-5516 Fax: (907) 272-5060

April 9, 1993

Hon. Bill Hudson
House of Representatives
P. O. Box V
Juneau, AK 99811

RE: CS for House Bill 236

Dear Representative Hudson:

The purpose of writing this letter pertains to House Bill 236. To help encourage newspapers in Alaska, we support CS HB 236 amendment for circulation of 1000 bona fide subscribers.

We want to see the requirement for second class mailing permits remain in the language. Legal notices should have the speediest and widest possible dissemination to the public. Third class permits mailed from outside and within urban Alaska takes too long to be delivered into rural Alaska.

We do not support any further amendments to this bill. We are content with the present language of CS HB 236 as written.


We are an Alaska Native-owned and Alaska based newspaper company with circulation of 20,000 mailed to rural Alaska.

Enclosed is a list of the names of the newspapers within Alaska Newspapers, Inc.

If you have any questions please contact Dave Hunter, General Manager at 272-9830, or myself at 279-5516.

Sincerely,

ALASKA NEWSPAPERS, INC.


Matthew Nicolai
Director

Enclosure

ALASKA NEWSPAPERS SUPPORT

ALASKA NEWSPAPERS INC.

The most cost-effective way to reach rural Alaska. Each ANI newspaper is paid circulation — locally reported and written. We are the newspapers of choice in each of the communities we serve. From Cordova to Kotzebue, Alaska Newspapers delivers the results you need for your advertising dollar.

THE ARCTIC SOUNDER

- Serving residents of Kotzebue and the Northwest Arctic Borough since 1986.
- Paid circulation: 1,900

THE BRISTOL BAY TIMES

- Serving the residents of Dillingham, Dutch Harbor, Naknek, King Salmon and the Bristol Bay area since 1980.
- Paid circulation: 3,150

THE CORDOVA TIMES

- Serving Cordova residents since 1914. The Times is a Prince William Sound Institution.
- Paid circulation: 1,650

THE DUTCH HARBOR FISHERMAN

- Serving the Aleutians from Nelson Lagoon to Adak, and the Pribilof Islands.
- Circulation: 2,500

THE SEWARD PHOENIX LOG

- Serving eastern Kenai Peninsula residents in the communities of Seward, Moose Pass, Cooper Landing and Hope since 1966.
- Paid circulation: 2,200

THE TUNDRA DRUMS

- Serving residents of Bethel and the entire Yukon-Kuskokwim Delta area since 1974.
- Paid circulation: 6,700

THE VALDEZ VANGUARD

- Serving the residents of Valdez and the entire Copper River Basin, since 1975.
- Paid circulation: 1,600

CHANNEL MARKERS

- A weekly television guide providing complete coverage of cable and RAINET programming.

RATES & MECHANICALS

OPEN RATES per column inch

THE ARCTIC SOUNDER	\$7.25
THE BRISTOL BAY TIMES	\$7.25
THE CORDOVA TIMES.....	\$7.25
THE DUTCH HARBOR FISHERMAN.....	\$8.75
THE SEWARD PHOENIX LOG	\$7.25
THE TUNDRA DRUMS.....	\$8.75
THE VALDEZ VANGUARD	\$6.75

CHANNEL MARKERS • \$25.00

CHANNEL MARKERS CONTRACT RATES
13 weeks • 3% discount
26 weeks • 5% discount
52 weeks • 10% discount
(3 column inch minimum)

COMBINATION RATES

per column inch

4 OR 5 PAPERS	\$30.00
6 OR 7 PAPERS	\$35.00

ANNUAL

BULK CONTRACT RATES

150 column inches • 3% discount
300 column inches • 5% discount
500 column inches • 10% discount
750 plus column inches • 15% discount

ANNUAL WEEKLY

FREQUENCY CONTRACT RATES

6 column inches • 15% discount
18 column inches • 20% discount
35 column inches • 30% discount
75 plus column inches • 40% discount

26 weeks • add 50¢ per column inch
13 weeks • add \$1.00 per column inch
Plus applicable local sales tax, if any.

SIZES

Five column by 15 inch format containing 75 column inches per page.

1 column	1-13/16"	3 column	5-3/4"
2 column	3-13/16"	4 column	7-3/4"
		5 column	9-3/4"

COLOR

Black and 1 color • \$150
Black and 2 colors • \$300
Black and 3 colors • \$400
Full color reproduction • \$425
(does not include color separation)

PREPRINTED INSERTS

1 to 8 pages (up to 1 ounce) • \$85 per 1,000
9 to 16 pages (up to 2 ounces) • \$115 per 1,000
over 16 pages (over 2 ounces) • call for quote
(maximum non-folded size, 11-inches by 17-inches)

CLASSIFIED ADS

20¢ per word or \$1 per line
(\$3.00 minimum, per week)
Legal Notices • \$1 per line

MULTIPLE PAPER DISCOUNTS
3 papers • 40¢ or \$2 per line
4 to 6 papers • 80¢ or \$4 per line
7 papers • \$1.00 or \$5 per line

PROMPT PAYMENT DISCOUNTS

10 days • 3%	Prepaid • 5%
--------------	--------------

15% AGENCY COMMISSION

Standard agency commission is honored for recognized agencies providing camera-ready materials and payment within 30 days from date of invoice. Reserve space by 5 p.m. Friday - deliver camera-ready ads by 5 p.m. Tuesday (Channel Markers - 5 p.m. Monday).

DEADLINES

5 p.m. Friday before publication
Channel Markers • 5 p.m. Wednesday

POSITION PLACEMENT POLICY

Back Page • 1 color minimum

All other position placements will be on a space available basis only. We strive to accommodate position requests but cannot guarantee position.

ALASKA NEWSPAPERS INC.

Eric Hancock • Advertising Director
Karen Huston • Advertising Manager
503 E. 6th Ave., Anchorage, AK 99501
(907) 272-9830 • FAX: (907) 272-9512