

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8648 HOUSE JUDICIARY

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB 289 (FIN)

ANALYSIS CONTINUATION:

According to information provided by the Department of Health and Social Services, about 380 runaways residing in runaway shelters run away from those shelters each year. It is this latter group of runaways who would be subject to arrest and detention in secure facilities, and for whom detention hearings must be held. The Department of Law's lawyers may spend as little as one hour on a simple, straightforward case, or many hours on a case where a minor has become determined to be on his or her own, or has become habituated to freedom of the street, making resolution of the matter lengthy and complex. In this latter instance, numerous hearings can occur over a period of several months.

It is our view, given the wide difference in effort needed by individual cases, that the average effort required to handle this caseload will be approximately five hours per case. As a consequence, it will be necessary to add one Attorney IV. This position should be added in Anchorage because the largest number of children's cases occur in Southcentral Alaska. It should be stressed that the department's Anchorage Human Services attorneys, who would be handling these cases, are already handling an extreme caseload, which now averages over 200 child protection cases per attorney. The department simply could not implement the bill's provisions without this additional help.

Last, we also note that the department advised the Senate Finance Committee during Assistant Attorney General Rebecca Snow's teleconference testimony of March 28, that the bill creates the potential for constitutional attack on equal protection grounds. Our concern in this regard still remains. Two or three months of attorney time may be required to resolve this issue, if the bill's provisions are challenged.

The Department of Law's costs, shown on the cover page, are based on the department's attorney hourly cost rate method, and represent the annual costs for an Attorney IV (SR24), including standard overheads for clerical assistance, space, communications, supplies, library, equipment, and timekeeping. In addition, \$7,500 (\$2,500 in travel and \$5,000 for witnesses) has been added for out-of-pocket case costs, and \$6,500 has been included for new position equipment.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB 289 (FIN)

Revision Date: _____
Title: Runaway Minors

Dept. Affected: Alaska Court System
BRU: Trial Courts

Sponsor: Senator Frank
Requestor: Senate Finance Committee

Component: _____
COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	21.7	21.7	21.7	21.7	21.7	21.7
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	21.7	21.7	21.7	21.7	21.7	21.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	21.7	21.7	21.7	21.7	21.7	21.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	21.7	21.7	21.7	21.7	21.7	21.7

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time	2.0	2.0	2.0	2.0	2.0	2.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel
Agency: Alaska Court System

Phone: 264-8228
Date: 04/08/96

Approved by: Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System

Date: 04/08/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB289(FIN)

Revision Date: _____
 Title: An Act Relating to Runaway Minors and
 their Families or Legal Custodians
 Sponsor: Senator Frank
 Requestor: Senate (FIN)

Dept. Affected: Health and Social Services
 BRU: Purchased Services
 Component: Residential Child Care
 COMPONENT SERIAL NO. 253
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	1,630.0	1,460.0	1,460.0	1,460.0	1,460.0	1,460.0
MISCELLANEOUS						
TOTAL OPERATING	1,630.0	1,460.0	1,460.0	1,460.0	1,460.0	1,460.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF	1,630.0	1,460.0	1,460.0	1,460.0	1,460.0	1,460.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	1,630.0	1,460.0	1,460.0	1,460.0	1,460.0	1,460.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill directs a peace officer to deliver a runaway minor to a semi-secure facility, if possible. It further provides that the Department develop regulations for semi-secure care. It will result in the Division administering grants for one time costs of installing hardware for semi-secure care. The Division has not had time to do an accurate estimate of cost of installation of semi-secure hardware (door and window alarms) of the six shelters that the Division believes would be involved. However, we have a recent shelter of six beds that has recently had a semi-secure alarm installed which cost \$12,000. Therefore, if we project that to the six shelters which have eighty-five beds, the cost would be approximately \$170,000. A few of these six shelters might choose not to purchase the hardware because they feel that they are semi-secure based on their staffing patterns.

(Continued)

4/13/96
 Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 04/02/96
 Date: 4/13/96

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ANALYSIS (cont.):

This bill mandates that if a runaway taken to a semi-secure facility runs, the minor will be arrested in violation of AS 47.10.141(g) and detained in juvenile secure facilities developed through grants from DFYS. The current overcrowding in the DFYS youth facilities will lead to situations in which minors in violation of 47.10.141(g) will be denied admittance to those detention facilities when no "juvenile secure facilities" exist.

A 1992 conference on runaways estimated that over 4,500 Alaskan youth ran away from home during that year. We have attempted to narrow the scope of this fiscal note by contacting runaway shelters to see how many runaways those programs served during FY95 and how many of those youth "ran" from the shelters. From those responses, we estimate that at least 380 youth will be subject to AS 47.10.141(g).

We then estimate a need for 20 beds in "juvenile secure facilities", 5 each in Juneau and Fairbanks, and 10 in Anchorage. Currently, semi-secure facilities with a 1:4 staff-client ratio, 24 hour awake staff, and no electronic security aids cost \$155.00 per bed. We anticipate that upgrading facilities to include alarm systems and meet fire marshal requirements, as well as an increased staff ration of 1:3, will cost \$200.0 per bed per day.

The cost of Grants for 20 beds x \$200/day x 365 days = \$1,460,000.00.

CS SB 289(FIN)

This fiscal note is based on the following assumptions:

- 1) The current shelter programs for runaway minors will continue to provide shelter services;
- 2) There will be some semi-secure facilities as specified in Sec. 10, AS 47.10.310(c)(6);
- 3) Minors arrested in violation of AS 47.10.141(g) will be detained in juvenile secure facilities developed through grants from Division of Family and Youth Services; and
- 4) The current overcrowding in the DFYS youth facilities will lead to situations in which minors in violation of 47.10.141(g) will be denied admittance to those detention facilities even when no "juvenile secure facilities" exist.

A 1992 conference on runaways estimated that over 4,500 Alaskan youth ran away from home during that year. We have attempted to narrow the scope of this fiscal note by contacting runaway shelters to see how many runaways those programs served during FY 95 and how many of those youth "ran" from the shelters. From those responses, we estimate that at least 380 youth will be subject to AS 47.10.141(g).

We then estimate a need for 20 beds in "juvenile secure facilities", 5 each in Juneau and Fairbanks, and 10 in Anchorage. Currently, semi-secure facilities with a 1:4 staff-client ratio, 24 hour awake staff, and no electronic security aids cost \$155.00 per bed. We anticipate that upgrading facilities to include alarm systems and meet fire marshall requirements, as well as an increased staff ratio of 1:3, will cost \$200.00 per bed per day.

We also anticipate a need for additional social work staff to conduct in-depth investigations of this group of runaways in order to decide whether the minors are released to parents or petitioned into court. An investigation of abuse or neglect requires, on average, 5.7 hours to complete. A social worker has, on average, 1,350 hours per year, after deductions for personal and sick leave, training, meetings, and miscellaneous professional work requirements, to conduct investigations. The increase in the number of investigations required by this bill results in the need for 1.6 additional social workers just to complete the investigations. Since many of those youth may require social work time for court involvement and placement, the need for a total of 3 additional workers is a conservative estimate.

This bill requires the department to develop regulations which must ensure the confinement of minors and ensure that the facilities meet physical and program standards for providing safe and effective care of those minors.

Finally, the confinement of non-criminal youth in secure facilities will result in the loss of up to \$600.0 in federal funds from the Office of Juvenile Justice and Delinquency Prevention.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB289(FIN)

Revision Date: _____
 Title: An Act Relating to Runaway Minors and
 their Families or Legal Custodians
 Sponsor: Senator Frank
 Requestor: Senate (FIN)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Southcentral Region
 COMPONENT SERIAL NO. 254
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	163.8	163.8	163.8	163.8	163.8	163.8
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	163.8	163.8	163.8	163.8	163.8	163.8

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF	163.8	163.8	163.8	163.8	163.8	163.8
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	163.8	163.8	163.8	163.8	163.8	163.8

POSITIONS:

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill directs a peace officer to arrest a minor in violation of AS 47.10.141(g) if that minor has run from a semi-secure facility for runaways. DFYS estimates that at least 380 youth will be subject to AS 47.10.141(g). DFYS anticipates a need for two additional Social Workers III's in the Southcentral Region to conduct in-depth investigations of this group of runaways in order to decide whether the minors are released to parents or petitioned into court. An investigation of abuse or neglect requires, on average, 5.7 hours to complete. A social worker has, on average, 1,350 hours per year, after deductions for personal and sick leave, training, meetings and miscellaneous paperwork requirements, to conduct investigations. The increase in the number of investigations required by this bill results in the need for one and one third social workers just to complete investigations. Since many of those youth may require social work time for court involvement and placement, the need for a total of two additional workers is a conservative estimate.

5/3/96

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 04/02/96

Date: 4/3/96

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CS SB 289(FIN)

This fiscal note is based on the following assumptions:

- 1) The current shelter programs for runaway minors will continue to provide shelter services;
- 2) There will be some semi-secure facilities as specified in Sec.10, AS 47.10.310(c)(6);
- 3) Minors arrested in violation of AS 47.10.141(g) will be detained in juvenile secure facilities developed through grants from Division of Family and Youth Services; and
- 4) The current overcrowding in the DFYS youth facilities will lead to situations in which minors in violation of 47.10.141(g) will be denied admittance to those detention facilities even when no "juvenile secure facilities" exist.

A 1992 conference on runaways estimated that over 4,500 Alaskan youth ran away from home during that year. We have attempted to narrow the scope of this fiscal note by contacting runaway shelters to see how many runaways those programs served during FY 95 and how many of those youth "ran" from the shelters. From those responses, we estimate that at least 380 youth will be subject to AS 47.10.141(g).

We then estimate a need for 20 beds in "juvenile secure facilities", 5 each in Juneau and Fairbanks, and 10 in Anchorage. Currently, semi-secure facilities with a 1:4 staff-client ratio, 24 hour awake staff, and no electronic security aids cost \$155.00 per bed. We anticipate that upgrading facilities to include alarm systems and meet fire marshall requirements, as well as an increased staff ratio of 1:3, will cost \$200.00 per bed per day.

We also anticipate a need for additional social work staff to conduct in-depth investigations of this group of runaways in order to decide whether the minors are released to parents or petitioned into court. An investigation of abuse or neglect requires, on average, 5.7 hours to complete. A social worker has, on average, 1,350 hours per year, after deductions for personal and sick leave, training, meetings, and miscellaneous paperwork requirements, to conduct investigations. The increase in the number of investigations required by this bill results in the need for 1.6 additional social workers just to complete the investigations. Since many of those youth may require social work time for court involvement and placement, the need for a total of 3 additional workers is a conservative estimate.

This bill requires the department to develop regulations which must ensure the confinement of minors and ensure that the facilities meet physical and program standards for providing safe and effective care of those minors.

Finally, the confinement of non-criminal youth in secure facilities will result in the loss of up to \$600.0 in federal funds from the Office of Juvenile Justice and Delinquency Prevention.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB289(FIN)

Revision Date: _____
 Title: An Act Relating to Runaway Minors and
their Families or Legal Custodians
 Sponsor: Senator Frank
 Requestor: Senate (FIN)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Northern Region
 COMPONENT SERIAL NO. 255
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	81.9	81.9	81.9	81.9	81.9	81.9
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	81.9	81.9	81.9	81.9	81.9	81.9

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF	81.9	81.9	81.9	81.9	81.9	81.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	81.9	81.9	81.9	81.9	81.9	81.9

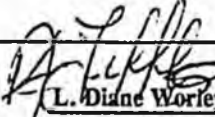

POSITIONS:

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill directs a peace officer to arrest a minor in violation of AS 47.10.141(g) if that minor has run from a semi-secure facility for runaways. DFYS estimates that at least 380 youth will be subject to AS 47.10.141(g). DFYS anticipates a need for one additional Social Workers III in Fairbanks to conduct in-depth investigations of this group of runaways in order to decide whether the minors are released to parents or petitioned into court. An investigation of abuse or neglect requires, on average, 5.7 hours to complete. A social worker has, on average, 1,350 hours per year, after deductions for personal and sick leave, training, meetings and miscellaneous paperwork requirements, to conduct investigations. The increase in the number of investigations required by this bill results in the need for two-third's social worker just to complete investigations. Since many of those youth may require social work time for court involvement and placement, the need for a total of one additional worker is a conservative estimate.

Prepared by:  L. Diane Worley, Director
 Division: Family & Youth Services
 Approved by Commissioner:  Karen Redue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 04/02/96
 Date: 4/3/96

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This fiscal note is based on the following assumptions:

- 1) The current shelter programs for runaway minors will continue to provide shelter services;
- 2) There will be some semi-secure facilities as specified in Sec.10, AS 47.10.310(c)(6);
- 3) Minors arrested in violation of AS 47.10.141(g) will be detained in juvenile secure facilities developed through grants from Division of Family and Youth Services; and
- 4) The current overcrowding in the DFYS youth facilities will lead to situations in which minors in violation of 47.10.141(g) will be denied admittance to those detention facilities even when no "juvenile secure facilities" exist.

A 1992 conference on runaways estimated that over 4,500 Alaskan youth ran away from home during that year. We have attempted to narrow the scope of this fiscal note by contacting runaway shelters to see how many runaways those programs served during FY 95 and how many of those youth "ran" from the shelters. From those responses, we estimate that at least 380 youth will be subject to AS 47.10.141(g).

We then estimate a need for 20 beds in "juvenile secure facilities", 5 each in Juneau and Fairbanks, and 10 in Anchorage. Currently, semi-secure facilities with a 1:4 staff-client ratio, 24 hour awake staff, and no electronic security aids cost \$155.00 per bed. We anticipate that upgrading facilities to include alarm systems and meet fire marshall requirements, as well as an increased staff ratio of 1:3, will cost \$200.00 per bed per day.

We also anticipate a need for additional social work staff to conduct in-depth investigations of this group of runaways in order to decide whether the minors are released to parents or petitioned into court. An investigation of abuse or neglect requires, on average, 5.7 hours to complete. A social worker has, on average, 1,350 hours per year, after deductions for personal and sick leave, training, meetings, and miscellaneous paperwork requirements, to conduct investigations. The increase in the number of investigations required by this bill results in the need for 1.6 additional social workers just to complete the investigations. Since many of those youth may require social work time for court involvement and placement, the need for a total of 3 additional workers is a conservative estimate.

This bill requires the department to develop regulations which must ensure the confinement of minors and ensure that the facilities meet physical and program standards for providing safe and effective care of those minors.

Finally, the confinement of non-criminal youth in secure facilities will result in the loss of up to \$600.0 in federal funds from the Office of Juvenile Justice and Delinquency Prevention.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB289(FIN)

Revision Date: _____
 Title: An Act Relating to Runaway Minors and
their Families or Legal Custodians
 Sponsor: Senator Frank
 Requestor: Senate (FIN)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: DFYS Central Office
 COMPONENT SERIAL NO. 259
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL	3.5					
CONTRACTUAL	20.0					
SUPPLIES	1.5					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	25.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	25.0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	25.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill directs a peace officer to deliver a runaway minor to a semi-secure facility, if possible. This bill mandates that if a runaway taken to a semi-secure facility runs from that facility, the minor will be arrested in violation of AS 47.10.141(g) and detained in juvenile secure facilities developed through grants from DFYS. It further provides that the Dept. develop regulations regarding semi-secure and "juvenile secure facilities". The current overcrowding in the DFYS youth facilities will lead to situations in which minors in violation of 47.10.141(g) will be denied admittance to those detention facilities when no "juvenile secure facilities" exist. We estimate that at least 380 youth will be subject to AS 47.10.141(g).

A contractor would be hired to develop regulations for semi-secure and secure care for runaways. The cost would be approximately \$150.00 x 133 hours to develop these regulations. The cost for travel to Public Hearings is estimated at \$3500.00 and supply cost for copying is estimated at \$1,500.00.

Signature
4/3/96

Prepared by: *[Signature]*
 Division: Family & Youth Services

Phone: 465-3191
 Date: 04/02/96

Approved by Commissioner: *[Signature]*
 Agency: Department of Health & Social Services

Date: 4/3/96

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CS SB 289(FIN)

This fiscal note is based on the following assumptions:

- 1) The current shelter programs for runaway minors will continue to provide shelter services;
- 2) There will be some semi-secure facilities as specified in Sec. 10, AS 47.10.310(c)(6);
- 3) Minors arrested in violation of AS 47.10.141(g) will be detained in juvenile secure facilities developed through grants from Division of Family and Youth Services; and
- 4) The current overcrowding in the DFYS youth facilities will lead to situations in which minors in violation of 47.10.141(g) will be denied admittance to those detention facilities even when no "juvenile secure facilities" exist.

A 1992 conference on runaways estimated that over 4,500 Alaskan youth ran away from home during that year. We have attempted to narrow the scope of this fiscal note by contacting runaway shelters to see how many runaways those programs served during FY 95 and how many of those youth "ran" from the shelters. From those responses, we estimate that at least 380 youth will be subject to AS 47.10.141(g).

We then estimate a need for 20 beds in "juvenile secure facilities", 5 each in Juneau and Fairbanks, and 10 in Anchorage. Currently, semi-secure facilities with a 1:4 staff-client ratio, 24 hour awake staff, and no electronic security aids cost \$155.00 per bed. We anticipate that upgrading facilities to include alarm systems and meet fire marshall requirements, as well as an increased staff ratio of 1:3, will cost \$200.00 per bed per day.

We also anticipate a need for additional social work staff to conduct in-depth investigations of this group of runaways in order to decide whether the minors are released to parents or petitioned into court. An investigation of abuse or neglect requires, on average, 5.7 hours to complete. A social worker has, on average, 1,350 hours per year, after deductions for personal and sick leave, training, meetings, and miscellaneous paperwork requirements, to conduct investigations. The increase in the number of investigations required by this bill results in the need for 1.6 additional social workers just to complete the investigations. Since many of those youth may require social work time for court involvement and placement, the need for a total of 3 additional workers is a conservative estimate.

This bill requires the department to develop regulations which must ensure the confinement of minors and ensure that the facilities meet physical and program standards for providing safe and effective care of those minors.

Finally, the confinement of non-criminal youth in secure facilities will result in the loss of up to \$600.0 in federal funds from the Office of Juvenile Justice and Delinquency Prevention.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB289(FIN)

Revision Date: _____
 Title: An Act Relating to Runaway Minors and
their Families or Legal Custodians
 Sponsor: Senator Frank
 Requestor: Senate (FIN)

Dept. Affected: Health and Social Services
 BRU: Purchased Services
 Component: Delinquency Prevention
 COMPONENT SERIAL NO. 248
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS				800.0	800.0	800.0
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	800.0	800.0	800.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts	(200.0)	(400.0)	(800.0)			
1003 GF Match						
1004 GF	200.0	400.0	800.0	800.0	800.0	800.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	800.0	800.0	800.0

POSITIONS:

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill directs a peace officer to deliver a runaway minor to a semi-secure facility, if possible. This bill mandates that if a runaway taken to a semi-secure facility runs, the minor will be arrested in violation of AS 47.10.141(g) and detained in juvenile secure facilities developed through grants from DFYS. If this bill were to become law, the Division of Family & Youth Services would be in violation of the Office of Juvenile Justice and Delinquency Prevention laws which do not allow runaways to be in secure lock up and could lose as much as \$600.0 in Federal Delinquency Prevention Grants.

Signature
5/1/96

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services

Phone: 465-3191
 Date: 04/02/96

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: 4/3/96

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CS SB 289(FIN)

This fiscal note is based on the following assumptions:

- 1) The current shelter programs for runaway minors will continue to provide shelter services;
- 2) There will be some semi-secure facilities as specified in Sec.10, AS 47.10.310(c)(6);
- 3) Minors arrested in violation of AS 47.10.141(g) will be detained in juvenile secure facilities developed through grants from Division of Family and Youth Services; and
- 4) The current overcrowding in the DFYS youth facilities will lead to situations in which minors in violation of 47.10.141(g) will be denied admittance to those detention facilities even when no "juvenile secure facilities" exist.

A 1992 conference on runaways estimated that over 4,500 Alaskan youth ran away from home during that year. We have attempted to narrow the scope of this fiscal note by contacting runaway shelters to see how many runaways those programs served during FY 95 and how many of those youth "ran" from the shelters. From those responses, we estimate that at least 380 youth will be subject to AS 47.10.141(g).

We then estimate a need for 20 beds in "juvenile secure facilities", 5 each in Juneau and Fairbanks, and 10 in Anchorage. Currently, semi-secure facilities with a 1:4 staff-client ratio, 24 hour awake staff, and no electronic security aids cost \$155.00 per bed. We anticipate that upgrading facilities to include alarm systems and meet fire marshall requirements, as well as an increased staff ratio of 1:3, will cost \$200.00 per bed per day.

We also anticipate a need for additional social work staff to conduct in-depth investigations of this group of runaways in order to decide whether the minors are released to parents or petitioned into court. An investigation of abuse or neglect requires, on average, 5.7 hours to complete. A social worker has, on average, 1,350 hours per year, after deductions for personal and sick leave, training, meetings, and miscellaneous paperwork requirements, to conduct investigations. The increase in the number of investigations required by this bill results in the need for 1.6 additional social workers just to complete the investigations. Since many of those youth may require social work time for court involvement and placement, the need for a total of 3 additional workers is a conservative estimate.

This bill requires the department to develop regulations which must ensure the confinement of minors and ensure that the facilities meet physical and program standards for providing safe and effective care of those minors.

Finally, the confinement of non-criminal youth in secure facilities will result in the loss of up to \$600.0 in federal funds from the Office of Juvenile Justice and Delinquency Prevention.

SB

296

HOUSE CS FOR CS FOR SENATE BILL NO. 296(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR ELLIS

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring criminal background checks before certain persons may be
2 employed in a nursing home or assisted living facility; and prohibiting the
3 hiring or retention of certain nursing home and assisted living facility employees
4 convicted of specified offenses."

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

6 * Section 1. AS 18.20 is amended by adding a new section to read:

7 Sec. 18.20.302. CRIMINAL BACKGROUND CHECK FOR EMPLOYEES. (a)
8 A nursing facility may not employ an individual in a paid position that the department
9 has determined is covered by this section, according to its regulations, unless the
10 individual, before beginning employment,

11 (1) provides to the facility a sworn statement as to whether the individual
12 has been convicted of an offense described in (c) of this section;

13 (2) provides to the facility the results of a name-check criminal
14 background investigation that was completed by the Department of Public Safety no

1 more than 30 days before the individual is hired; and

2 (3) submits to the facility two full sets of the individual's fingerprints.

3 (b) Within 30 days after employing an individual in a paid position, nursing
4 facility shall submit to the Department of Public Safety the fingerprints obtained under
5 (a)(3) of this section. The Department of Public Safety shall submit the fingerprints to
6 the Federal Bureau of Investigation for a national criminal history record check. When
7 the results are received, the department shall advise the facility of

8 (1) the date on which the fingerprint background check was completed;
9 and

10 (2) whether the check shows that the individual has committed an offense
11 described in (c) of this section.

12 (c) A nursing facility may not hire or retain an employee who has been
13 convicted of an offense listed in the department's regulations as being an offense covered
14 by this section.

15 * Sec. 2. AS 47.33 is amended by adding a new section to article 1 to read:

16 Sec. 47.33.100. CRIMINAL BACKGROUND CHECK FOR EMPLOYEES. (a)

17 An assisted living home may not employ an individual in a paid position that the
18 applicable licensing agency has determined is covered by this section, according to its
19 regulations, unless the individual, before beginning employment,

20 (1) provides to the home a sworn statement as to whether the individual
21 has been convicted of an offense described in (c) of this section; and

22 (2) provides to the home the results of a name-check criminal background
23 investigation that was completed by the Department of Public Safety no more than 30
24 days before the individual is hired; and

25 (3) submits to the home two full sets of the individual's fingerprints.

26 (b) Within 30 days after employing an individual in a paid position, an assisted
27 living home shall submit to the Department of Public Safety the fingerprints obtained
28 under (a)(3) of this section. The Department of Public Safety shall submit the
29 fingerprints to the Federal Bureau of Investigation for a national criminal history record
30 check. When the results are received, the department shall advise the home of

31 (1) the date on which the fingerprint background check was completed;
32 and

1 (2) whether the check shows that the individual has committed an offense
2 described in (c) of this section.

3 (c) An assisted living home may not hire or retain an employee who has been
4 convicted of an offense listed in the regulations of the applicable licensing agency as
5 being an offense covered by this section.

6 * Sec. 3. AS 47.33.920 is amended to read:

7 Sec. 47.33.920. REGULATIONS. The commissioner of health and social
8 services and the commissioner of administration each may adopt regulations to carry out
9 the provisions of this chapter, including regulations regarding licensure and renewal
10 requirements, license application and renewal procedures; application and license fees;
11 types, duration, renewal, and transferability of licenses; staffing and home operation
12 standards; and variances to licensure and operating standards. Regulations adopted under
13 this chapter may provide for the waiver or modification of the requirements of this
14 chapter for homes with fewer than six residents except that the regulations may not
15 provide for waiver or modification of the requirements of AS 47.33.100.

16 * Sec. 4. APPLICABILITY. (a) AS 18.20.302(a) and (b), added by sec. 1 of this Act, and
17 AS 47.33.100(a) and (b), added by sec. 2 of this Act, apply only to persons hired on or after
18 the effective date of this Act and may not be construed to modify a collective bargaining
19 agreement in effect on the effective date of this Act.

20 (b) AS 18.20.302(c), added by sec. 1 of this Act, and AS 47.33.100(c), added by sec.
21 2 of this Act, do not apply to convictions for offenses that were committed before the
22 effective date of this Act if the offense was committed by a person who was hired before the
23 effective date of this Act.

24 (c) Notwithstanding (a) and (b) of this section, until the effective date of new
25 regulations adopted to implement this Act, regulations that are in effect on the effective date
26 of this Act remain enforceable to the extent that they pertain to retention or nonretention of
27 an administrator or care provider in an assisted living home based on criminal offenses
28 described in the regulations.

Date Referred to Committee: April 19, 1996

FURTHER REFERRALS:

Date of Committee Action: 4/24/96

The JUDICIARY Committee considered:

CSSB 296(J)

CS FOR SENATE BILL NO. 296(JUD)

NURSING HOME & ASSTD LIVING EMPLOY

"An Act requiring criminal background checks before certain persons may be employed in a nursing home or assisted living facility; and prohibiting the hiring or retention of certain nursing home and assisted living facility employees convicted of specified offenses."

recommends it be replaced with the following committee substitute PSHP SB 296 (Jud) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) Public Safety (4-16-96)
H. 55 C4-16-96

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>		<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE Brian Porter

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 296(JUD)

- 1 Page 3, lines 16 - 20:
- 2 Delete all material and insert:
- 3 "* Sec. 4. APPLICABILITY. (a) AS 18.20.302(a) and (b), added by sec. 1 of this Act,
- 4 and AS 47.33.100(a) and (b), added by sec. 2 of this Act, apply only to persons hired on or
- 5 after the effective date of this Act and may not be construed to modify a collective bargaining
- 6 agreement in effect on the effective date of this Act.
- 7 (b) AS 18.20.302(c), added by sec. 1 of this Act, and AS 47.33.100(c), added by sec.
- 8 2 of this Act, do not apply to convictions for offenses that were committed before the
- 9 effective date of this Act if the offense was committed by a person who was hired before the
- 10 effective date of this Act.
- 11 (c) Notwithstanding (a) and (b) of this section, until the effective date of new
- 12 regulations adopted to implement this Act, regulations that are in effect on the effective date
- 13 of this Act remain enforceable to the extent that they pertain to retention or nonretention of
- 14 an administrator or care provider in an assisted living home based on criminal offenses
- 15 described in the regulations."

Passes

ALASKA STATE LEGISLATURE

Senate Health, Education and
Social Services Committee

Senate Judiciary Committee

Department of Health and Social
Services Budget Subcommittee

Department of Law
Budget Subcommittee



While in Session
State Capitol, Rm. 9
Juneau, Alaska 99801
(907) 465-4704
fax: (907) 465-2529

While in Anchorage
716 West 4th Ave., Ste. 110
Anchorage, Alaska 99501
(907) 258-8182
fax: (907) 258-5571

SENATOR JOHNNY ELLIS

SPONSOR STATEMENT CS FOR SENATE BILL 296 (JUD)

Senate Bill 296 would require a criminal background check that would include a fingerprint check of the records of the Federal Bureau of Investigation as a condition of employment in a nursing home or assisted living facility.

The National Child Protection Act of 1993, as amended by the Violent Crime Control and Law Enforcement Act of 1994, strongly encourages states to implement these background check procedures to enable employers to learn beforehand an individual applicant's fitness to care for the safety and well being of children, the elderly or individuals with disabilities. We worked closely with the FBI to assure compliance with the NCPA, Public Law 92-544 Criteria, and strict federal right to privacy restrictions. Our bill has received strong support and approval from the Access Integrity Unit of the FBI.

Abuse, neglect and exploitation of vulnerable adults in nursing homes and assisted living facilities is receiving increasing attention on the national level. A "20/20" program that featured hidden camera footage of nursing home attendants hitting and otherwise abusing and stealing from residents prompted this legislation. Criminals preying on vulnerable adults in nursing homes and assisted living facilities outrages everyone.

Alaska has one of the fastest growing senior populations in the country. Assisted Living Facilities constitute a relatively new industry that is expanding rapidly to meet the needs of this population. We must take steps to ensure the safety of those unable to protect themselves. Senate Bill 296 is a crime prevention bill. Those most likely to perpetuate such abuse will not be permitted to work in these facilities.

I strongly urge your support of this legislation to stop those who would prey on the most helpless members of our society.

BILL: SB 296 SHORT TITLE: NURSING HOME & ASSTD LIVING EMPLOYEES
BILL VERSION: CSSB 296(JUD)
SPONSOR(S): SENATOR(S) ELLIS

CURRENT STATUS: (H) JUD

STATUS DATE: 04/19/96

TITLE: "An Act requiring criminal background checks before certain persons may be employed in a nursing home or assisted living facility; and prohibiting the hiring or retention of certain nursing home and assisted living facility employees convicted of specified offenses."

02/12/96	2385	(S)	READ THE FIRST TIME - REFERRAL(S)
02/12/96	2385	(S)	JUDICIARY
04/16/96	3260	(S)	JUD RPT CS SDP NEW TITLE
04/16/96	3260	(S)	ZERO FN TO CS (DHSS)
04/16/96	3260	(S)	ZERO FN TO CS (DPS)
04/18/96	3359	(S)	RULES TO CALENDAR 4/18/96
04/18/96	3360	(S)	READ THE SECOND TIME
04/18/96	3360	(S)	JUD CS ADOPTED UNAN CONSENT
04/18/96	3360	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/18/96	3360	(S)	READ THE THIRD TIME CSSB 296(JUD)
04/18/96	3361	(S)	PASSED Y18 N- E1 A1
04/18/96	3368	(S)	TRANSMITTED TO (H)
04/19/96	3873	(H)	READ THE FIRST TIME - REFERRAL(S)
04/19/96	3873	(H)	JUDICIARY

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: CSSB 296(JUD)

Revision Date: April 18, 1996 Dept. Affected: Public Safety
 Title: An Act requiring fingerprint criminal BRU: _____
checks person employed in nursing home Component: _____
 Sponsor: Senator Ellis
 Requestor: Senate Judiciary COMPONENT SERIAL NO. _____

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

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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-
CHANGE IN Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE/Program						
1006 GE/MHT/A						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) 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.)

The Department of Public Safety supports fingerprint based criminal history background checks as part of the background investigation prior to employment or licensing for sensitive positions who come in routine contact with dependent adults. This bill proposes such a requirement for nursing homes and assisted living facilities.

Prepared By: Kenneth E. Bischoff, Director Phone: 465-4336
 Division: Administrative Services Date: April 18, 1996
 Approved by: *Ronald L. Otte* Date: 4/18/96
 Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB 296 (JUD)

Revision Date: _____	Dept. Affected: <u>Health and Social Services</u>
Title: <u>Background Checks for Nursing Home/ Assisted Living Home Employees</u>	BRU: <u>Medical Assistance Administration</u>
Sponsor: <u>Senator Ellis</u>	Component: <u>Certification & Licensing</u>
Requestor: <u>Senate Judiciary</u>	COMPONENT SERIAL NO. <u>#245</u>
	See also (SN#): _____

Expenditures/Revenues:	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
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						
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						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$0.0

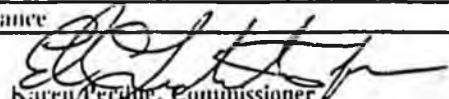
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Nursing Homes are already visited annually by the Certification and Licensing Unit. A check for compliance with this bill could be done at the annual site visit, thus not adding any additional cost for verification.

Prepared by: Carol Lingner
 Division: Medical Assistance

Approved by Com: 
 Agency: Karen Perrine, Commissioner
Department of Health & Social Services

Phone: 465-3355
 Date: 04/16/96

Date: 4/16/96

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535

February 28, 1996

Honorable Johnny Ellis
Alaska State Legislature
State Capitol, Room 9
Juneau, Alaska 99801

Attention: Ms. Lynn Kenney
Legislative Aide

Dear Senator Ellis:

Reference is made to your facsimiles dated January 23, and February 9, 1996, with enclosures, requesting a review of proposed legislation, which, if approved under Public Law (Pub. L.) 92-544, would authorize national criminal history background checks of nursing home and assisted living facility employees. Reference is also made to telephone conversations between Ms. Lynn Kenney of your staff and Ms. Connie Ahrens of my staff of January 26, and February 9, 1996.

The Access Integrity Unit legal staff has completed its review of the proposed legislation, Senate Bill 296, which pertains to background checks of prospective employees of nursing homes and assisted living facilities. The language, if enacted as currently drafted, would qualify under Pub. L. 92-544 for access to FBI criminal history record information (CHRI). When enacted into law, a complete copy of this legislation should be resubmitted for our final review.

If you have any questions concerning this matter, please do not hesitate to call Ms. Ahrens at (304) 625-2864.

Sincerely yours,

Bennie F. Brewer
Chief
Programs Support Section
Criminal Justice Information
Services Division



OLDER PERSONS ACTION GROUP, Inc.

325 E. 3rd. Ave., #300
Anchorage, AK 99501-2606
(907) 276-1059 (Toll free 800-478-1059)
FAX (907) 278-6724

March 26, 1996

Senator Johnny Ellis
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Senator Ellis:

The Older Persons Action Group, Inc. urges you to support SB 211. This bill makes it a crime for an individual to abuse or otherwise endanger vulnerable adults entrusted to their care. When law enforcement and judicial officials refuse to prosecute perpetrators of abuse because there is no specific law against these acts, we must take action to preclude repetition of these crimes. SB 211 fulfills this need and we strongly urge you to support this legislation

OPAG also endorses SB 296 which requires a fingerprint background check before certain persons may be employed in a nursing home or assisted living facility. Elderly living in these facilities are particularly vulnerable to criminals who find ready employment in these facilities. The requirement for a fingerprint background check is a prudent management practice to prohibit persons with violent or criminal backgrounds from caring for the elderly. I urge you to support SB 296.

Sincerely,

Sara L. McCullough
President
Board of Directors

*Be sure hope your/these bills get moved out of
Committee - Sara*



2211-A Arca Drive, Anchorage, Alaska 99508 (907) 277-6677 Fax (907) 272-2161

March 25, 1996

The Honorable Johnny Ellis
Alaska State Legislature
State Capitol
Juneau, AK

Dear Senator Ellis:

I would like to commend you on SB 211 and SB 296. I feel that these bills are extremely important to the welfare and protection of senior citizens within the state of Alaska.

After reviewing both bills, there is only one comment that I would like to make regarding these bills. I feel that nursing homes, assisted living homes, and foster care placements should be required to post the numbers that a person can call anonymously if they have been witness to acts of abuse or neglect. These numbers should be posted so both the consumers and the staff have access to the numbers. I have been in some nursing homes recently and have yet to see these numbers. When I asked the staff, I was told that they aren't required to post these numbers. I have noticed that at API the number for Disability Law Center was posted for the consumers. I am not sure if your legislation could "add" this into the language under "Reporting of Abuse" or whether another piece of legislation needs to be drafted. This legislation could then include all of the special needs population.

Again, on behalf of the Arc of Anchorage, I would like to commend you on pursuing this much needed legislation. If you have any questions, please feel free to contact me at 277-6677.

Sincerely,

A handwritten signature in cursive script that reads "John Thomas".

John Thomas, Deputy Director

2363 Captain Cook Drive
Anchorage, Alaska 99517
March 21, 1996

Senator Johnny Ellis
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Ellis:

Johnny,

RE: SB 211 and SB 296

As a senior citizen who has spend many years in Alaska advocating for vulnerable individuals- children, younger adults and now the senior population, I was stunned to learn that we had no laws that made abuse or neglect of the elderly a crime. My father spent seven and a half years at Providence Extended Care Facility and I was ignorant all that time of this fact!!

I was heartened to learn that you had introduced SB 211 and SB 296 and pleased that these bills have passed through the Senate Committees. I trust that the House will view them as the very important bills that they are and that we will see them signed into law this session. I would hate to think that as our senior population continues to grow, incidences of abuse and neglect are allowed to continue without some safeguards on those so inclined to abuse, neglect and exploit the elderly.

I want you to know how very much I appreciate your caring and concern around important 'people' issues in our very complex world--our children, vulnerable families and adults of all ages. I applaud your efforts and willingness to work on behalf of some of the issues that are not all that popular at this time. I thank you for all that you have done through the years. I know that many of the good things that have happened have happened because you were there.

Sincerely,

Thelma P. Langdon

Thelma P. Langdon

March 12, 1996

Honorable Johnny Ellis
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Ellis:

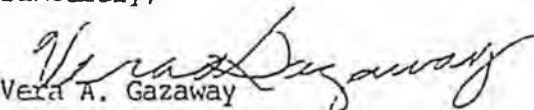
Thank you for introducing Senate Bill 211 legislation to protect vulnerable adults from abuse and neglect.

We have acknowledged that some adults, such as the elderly and the handicapped, are more vulnerable than others. SB 211 identifies and defines acts which endanger the welfare of vulnerable adults. This clarification is needed.

Senate Bill 296 is of equal importance. Legislation requiring fingerprint criminal background checks for persons seeking employment in a nursing home or assisted living facility is badly needed. Many residents in nursing home or assisted living facilities lack the ability to communicate their needs or follow the instructions of their caregiver. While it is true that background checks will not insure competent care, they will do much to eliminate some potential risks.

I strongly support both Senate Bill 211 and Senate Bill 296.

Sincerely,


Vera A. Gazaway
415 Willoughby #414
Juneau, AK 99801

1416 Birchwood
Anchorage, Alaska 99578
March 20, 1996

Senator Jeremy Ellis
Juneau, Alaska

Dear Senator Ellis,

As you know, I am fully supportive of Senate Bill 296 and Senate Bill 211 and want to thank you for your response to a recognition here. Since our last discussion of these bills I have talked about them with many individuals and groups and there appears to be tremendous support. Thank you again for your concern regarding older Alaskans' needs. Please keep me advised and let me know if or how I may be helpful in your efforts.

Sincerely,
Ella H. Craig, LCSW

Senator Taylor:

I cannot be at the 1:30PM hearing today for SB211 but want to express my support of it as well as for SB296. As the mother of a 42 year old mentally ill daughter who will likely need to be in an assisted living facility for the rest of her life, and as one in that age bracket where I see close friends going into a variety of retirement homes, I see the need for close supervision of employees in assisted living facilities. The potential for abuse is great and, as the population in Alaska increasingly "greys," it is urgent that we develop strict guide-lines and maintain proper supervision of all employees in both retirement facilities and facilities housing the mentally ill.

As President of both AAMI (The ANCHORAGE Alliance for the Mentally Ill) and CARTA (Central Alaska Retired Teachers) I urge passage of both SB211 and SB296.

Lola J. Reed, 831 W. 19th Ave., Anchorage, AK 99503, (907) 279-3006.

Distribution:

To: Robin Taylor > FAX:19074653922

Ms. Jean Williams
HC 02 Box 7470
Palmer AK 99645 Phone: 745-4000
Affiliation: Reg. Voter: U Date POM Sent: 03/15/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 17
Subject:
Message: PLEASE SUPPORT THE BILLS TO PROTECT ELDERLY PEOPLE.

Mrs. Louise G Harris
PO Box 874287
Wasilla AK 99687 Phone: 373-3962
Affiliation: Reg. Voter: Y Date POM Sent: 03/21/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 05
Subject:
Message: THIS LAW WOULD BE IMPORTANT FOR PROTECTING VULNERABLE ADULTS IN NURSING HOMES.
SOME RESIDENTS HAVE BEEN SEVERELY MISTREATED BY EMPLOYEES. PLEASE VOTE FOR
THIS BILL.

Mr. John L Weisenberger
PO Box 34
Palmer AK 99645 Phone: 745-3030
Affiliation: Reg. Voter: Y Date POM Sent: 03/21/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 05
Subject:
Message: HOW COULD ANYONE NOT SUPPORT THIS MATTER?!

Mr. Kenneth Riley
HC01 Box 6930A
Palmer AK 99645 Phone: 746-6299
Affiliation: Reg. Voter: Y Date POM Sent: 03/21/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 05
Subject:
Message: MY WIFE, IDA, AND I SUPPORT THIS BILL.

Mrs. Harriet Z McRae
PO Box 771
Palmer AK 99645 Phone: 000-0000
Affiliation: Reg. Voter: Y Date POM Sent: 03/21/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 05
Subject:
Message: I STRONGLY SUPPORT THIS BILL AND WILL APPRECIATE YOUR CONSIDERATION.

Mrs. Wanda P Marrs
PO Box 520
Palmer AK 99645 Phone: 745-3313
Affiliation: Reg. Voter: U Date POM Sent: 03/21/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 05
Subject:
Message: I SUPPORT BILL 296.

Mr. Horace J Woodworth
PO Box 3556
Palmer AK 99645 Phone: 745-4800
Affiliation: Reg. Voter: Y Date POM Sent: 03/21/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 05
Subject:
Message: I SUPPORT SB296.

Mrs. Elouise M Smith
PO Box 765
Palmer AK 99645 Phone: 745-3877
Affiliation: Reg. Voter: Y Date POM Sent: 03/21/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 05
Subject:
Message: I STRONGLY SUPPORT SB296. THANK YOU FOR YOUR ASSISTANCE.

Mr. Orville C Wertzbaugher
HC02 Box 7826-A2
Palmer AK 99645 Phone: 745-2963
Affiliation: Reg. Voter: Y Date POM Sent: 03/21/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 05
Subject:
Message: I SUPPORT THIS BILL 100%.

Mrs. Rosaline LC Moffett
HC04 Box 9367
Palmer AK 99645 Phone: 745-5421
Affiliation: Reg. Voter: Y Date POM Sent: 03/21/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 05
Subject:
Message: PLEASE SUPPORT THIS BILL ON MY BEHALF.

Mrs. Helen L Dolenc
825 S Diomedes
Palmer AK 99645 Phone: 745-3932
Affiliation: Reg. Voter: Y Date POM Sent: 03/21/96 Consituent: N
Bill Number: SB 296 Response: Supports Distribution: 05
Subject:
Message: PLEASE, PLEASE PASS THIS BILL NOW.

Mr. Jimmie Laughlin
Box 878477
Wasilla AK 99654 Phone: 745-3596
Affiliation: Reg. Voter: U Date POM Sent: 03/28/96 Consituent: N
Bill Number: SB 296 Response: Amend Distribution: 20
Subject:
Message: GIVE ME ONE REASON WHY NOT A BACKGROUND CHECK.

SB

312

Alaska State Legislature

Chairman,
Judiciary Committee

Vice Chairman,
Transportation Committee

Member,
Resources Committee
Western Legislative Forestry Task Force



State Capital
Juneau, Alaska 99801-1152
1907) 465-3873
Fax: 1907) 465-3922

352 Front Street
Ketchikan, Alaska 99901
1907) 225-8088
Fax: 1907) 225-0713

Senator Robin L. Taylor

Sponsor Statement

Senate Bill 312

Senate Bill 312 was introduced to correct an error made in the drafting of last year's SB 87, an omnibus bill dealing with the Alcoholic Beverage Control Board and local option elections.

One provision in SB 87 was intended to stop so-called "gray market" goods from entering Alaska without paying the state excise tax. This language, known as the "primary source" provision, appeared as section 11 of last year's legislation.

While the language passed last year does address the gray market issue, it also has the unintended effect of banning a practice common among retailers. Bars and restaurants often purchase alcohol from businesses such as Costco because of better pricing or from a package store when wholesaler delivery is not on a daily basis. The language adopted last year prohibits that practice and has the effect of requiring that bars and restaurants purchase only from a wholesaler.

SB 312 amends last year's bill to allow a person holding a dispensary, restaurant, club or package store license to purchase from a package store, as long as the package store obtained its product from a wholesaler.

SB 312 retains the protections against gray market goods while restoring the ability of bars and restaurants to purchase from package stores and discount outlets.

SENATE BILL NO. 312

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to purchase of an alcoholic beverage from a package store."

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

3 * Section 1. AS 04.16.172 is amended to read:

4 Sec. 04.16.172. RESTRICTIONS ON PURCHASE AND SALE OF
5 ALCOHOLIC BEVERAGES. A person licensed under AS 04.11.090, 04.11.100,
6 ^{Club} 04.11.110, or 04.11.150 may not purchase, sell, or offer for sale an alcoholic beverage
7 unless the alcoholic beverage being purchased, sold, or offered for sale was obtained
8 from a person licensed under

9 (1) AS 04.11.160 as a primary source of supply for the alcoholic
10 beverage being purchased, sold, or offered for sale; [OR]

11 (2) ^{PACKAGE} AS 04.11.150 and the alcoholic beverage being purchased, sold,
12 or offered for sale was obtained from a person licensed under AS 04.11.160 as a
13 primary source of supply; or

14 (3) AS 04.11.130, 04.11.140, or 04.11.170.
^{brewing winery distillery}

Revision Date: _____
 Title: License Buying Liquor From Package Store
 Sponsor: Senate Judiciary
 Requestor: Senate Judiciary

Dept. Affected: Revenue (S)
 BRU: Alcoholic Beverage Control Board
 Component: Alcoholic Beverage Control Board
 COMPONENT SERIAL NO. 100

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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						
----------------------	--	--	--	--	--	--

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

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS:

This is a housekeeping measure which will have no fiscal impact on the Alcoholic Beverage Control operating budget.

Prepared by: Douglas B. Griffin
 Division: Alcoholic Beverage Control Board
 Approved by Commissioner: Ross C. Kenney
 Agency: Department of Revenue

Phone: 907-277-8638
 Date: 3/22/96
 Date: 3/22/96

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For further distribution information call the Governor's Legislative Office

SB

320

Date of Committee Action: 4/24/96

The JUDICIARY Committee considered:

SB 320

SENATE BILL NO. 320

NEW SUPERIOR COURT JUDGE FOR DILLINGHAM

"An Act increasing the number of superior court judges designated for the Third Judicial District to provide an additional superior court judge at Dillingham."

recommends it be replaced with the following committee substitute SB 320 the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) Courts/4-15-96

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Brian Porter</i>	✓			
<i>Joseph [unclear]</i>			✓	
<i>Ken Bonde</i>	✓			
<i>[unclear]</i>	✓			
<i>William [unclear]</i>			✓	
<i>Paul [unclear]</i>	✓			
<i>Betty [unclear]</i>	✓			

CHAIR'S SIGNATURE Brian Porter

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

APR 11 1996

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-2075

April 10, 1996

The Honorable Rick Halford
Alaska State Senator
State Capitol
Juneau, AK 99801-1182

Dear Senator Halford:

The Department of Law strongly supports SB 320, a bill which creates a new superior court judge position in Dillingham. We believe that creation of this judgeship is essential to our ability to provide adequate criminal justice services to the Bristol Bay region.

As you know, I recently traveled to Dillingham with Deputy Attorney General Laurie Otto and Anchorage District Attorney Ken Goldman. While there we participated in a public meeting and heard many residents of the community discuss their criminal justice needs. We also met separately with region leaders, including city officials, school officials, Native leaders, victims' advocates, and police officials. From all we heard the same message - delivery of criminal justice services by those living outside the region simply does not work. Although most of our discussions revolved around the need for a resident district attorney, it is clear that the criminal justice needs of the community will not be met until there is a resident superior court judge.

For example, until there is a superior court judge, grand juries for felony cases arising in the Bristol Bay and Aleutian Chain regions must be conducted in Anchorage, and, because the judges serving this region live in Anchorage, many motion hearings on these cases are heard in Anchorage. This means that the district attorney for the region must spend a significant amount of time in Anchorage handling grand juries and motion hearings.

The Honorable Rick Halford

April 10, 1996

Page 2

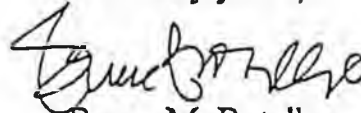
Although we requested in September 1995 that we be allowed to conduct grand juries on Bristol Bay cases in Dillingham, this request was turned down by the court system, which concluded "Grand juries require management by a Superior Court judge. That would have to be done telephonically which may be OK in some cases, but in most cases is not appropriate. Our grand juries are convened in areas served by Superior Court judges which makes management of the grand jury that much easier."

This is not the only problem created by the lack of a Superior Court judge. Because the judge travels to Dillingham/Naknek only one week a month, that is the only week available to conduct trials, a period of time that is wholly inadequate. The result of having inadequate time on the calendar is that we are forced to enter into plea agreements in order to avoid having cases dismissed for failure to bring a defendant to trial within 120 days. In other words, there are cases that we cannot pursue at appropriate levels based on the limited court time that is currently available.

I know you share our belief that protecting the public through adequate prosecution of criminal offenses is a priority for all communities in the state. SB 320 is an important step forward in fully protecting the citizens of Bristol Bay and the Aleutian Chain.

Please let me or Laurie Otto know if you need any additional assistance in seeking passage of this important legislation.

Sincerely yours,



Bruce M. Botelho
Attorney General

cc: Bristol Bay Times
Senator Robin Taylor
Senator Lyman Hoffman
Representative Ivan Ivan
Representative Carl Moses



Senator Lyman F. Hoffman

Alaska State Legislature
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-4453

- District T
- Adak
- Akiachak
- Aktak
- Akutan
- Aleknagik
- Amchitka
- Atka
- Atmauquak
- Artu
- Belkofski
- Bethel
- Chefornak
- Chignik
- Chignik Lagoon
- Chignik Lake
- Clark's Point
- Cold Bay
- Dillingham
- Dutch Harbor
- Ekuk
- Egegik
- Ekuk
- Ekvok
- False Pass
- Goodnews Bay
- Igigig
- Iliamna
- Ivanof Bay
- Kasigluk
- King Cove
- King Salmon
- Kipnuk
- Kokhanok
- Kokhanok Bay
- Koliganek
- Kongiganak
- Kwethluk
- Kwigillingok
- Levelock
- Nanokotak
- Naknek
- Napaklak
- Napaskiak
- Nelson Lagoon
- New Stuyahok
- Niwahlen
- Niukolski
- Nondalton
- Nunapitchuk
- Scarville
- Sedro Bay
- Serryville
- Sit Point
- Tatlinum
- Port Alsworth
- Port Heiden
- Port Moller
- Orange Creek
- Quinhagak
- Saint George Island
- Saint Paul Island
- Sand Point
- Semna
- South Naknek
- Stuaw Harbor
- Togiak
- Tuntutulkak
- Twin Hills
- Tashik
- Talaska
- Tiga

TO: Senator Dave Donley
Senate Finance Committee

FROM: Senator Lyman Hoffman
District T

RE: Senate Bill 320 - New Superior Court Judge For
Dillingham.

DATE: April 12, 1996



Senator Donley,

Thank you for your consideration of Senate Bill 320 - an integral component in the equitable delivery of justice to the people of Dillingham and the Bristol Bay region.

The primary objective of Bristol Bay residents is to facilitate the return of their District Attorney. The Attorney General believes the establishment of a Superior Court in Dillingham partnered with the return of the District Attorney will provide a more comprehensive delivery of justice and public protection.

The Court System has provided a trim, yet responsible, fiscal note and the Court House in Dillingham was originally built with the eventual acquisition of a Superior Court in mind.

P.O Box 886 • Bethel, Alaska 99559 • (907) 543-3541

Senator
Senate Finance Committee
re: SB 320, continued

Combined with passage of SB 320, these factors lay the groundwork for a system that will address the needs of Bristol Bay residents while relieving substantial stress on an overburdened Anchorage Court system. I believe this is what is commonly referred to as a "win-win" situation.

Also, the attached letter will further illustrate the fact that Bristol Bay, as a region, will benefit from this action. Although the Superior Court will be physically located in the City of Dillingham, people throughout Bristol Bay will be provided a justice system equitable to other areas of Alaska.

During my frequent conversations with Terry Hoeffler, CEO of the Bristol Bay Native Corporation, he raises an alarming point. Under the current system, the region's young people are seeing criminals - who endanger the lives and safety of local residents - simply walk away, in many instances, for lack of a proper delivery of justice. What are our children to make of this message?

Thank you for your attention to this important matter.

BRISTOL BAY NATIVE ASSOCIATION

P.O. BOX 310
DILLINGHAM, ALASKA 99576
PHONE (907) 842-5257

*File copy
done 3/2/96
add*

February 29, 1996

Tribal Councils
Served by BONA:

Aleknagik

Chignik Bay Rep. Carl E. Moses
Alaska State Legislature
Chignik Lagoon State Capitol (MS 3100)
Chignik Lake Juneau, Alaska 99801-1182

Chukchi Point

Dillingham Dear Representative Moses,

Egegik

We are writing to ask for your help in our continuing efforts to obtain adequate and responsible criminal justice services for Bristol Bay communities.

Ektai

Ekwok

Ignorik

First, we seek your assistance in regaining the full time resident District Attorney position assigned to Bristol Bay for over ten years before the Department of Law chose to reduce services to us in 1994. This has been and remains our first priority. Second, we ask that you begin the Legislative process necessary to establish a Superior Court judgeship located in Bristol Bay with jurisdiction over both the Bay and the Aleutian region.

Ilisnoo

Isimat Bay

King Salmon

Kotikanek

Kuligak

Larsvik

As you know, we have been struggling for some time to correct the damage done when the Department of Law chose to physically relocate Bristol Bay's District Attorney and incorporate the position into the Anchorage office in 1994.

Makotuk

Nalnet

Continuing deterioration of already inadequate prosecution services to our region caused a public uproar that resulted in the recent visit to Dillingham of Attorney General Bruce Botelho accompanied by Laurie Otto, Chief Prosecutor and Ken Goldman, supervisor of the Anchorage D.A. Office. In Dillingham the attorney General met with representatives of four of the undersigned organizations.

New Smyrnaok

Niwahick

Nondout

Pedro Bay

Perryville

While Mr. Botelho made no promises, he did listen and said he would reconsider his decision to pull the D.A.'s position from Bristol Bay. However, we believe that Mr. Botelho has and will continue to base his decisions on inadequate and misleading information about the nature and scope of the criminal justice needs of our communities. Further, that without direct and assertive intervention by you the Department of Law will not change its mind in this matter.

Point Barrow

Point Barrow

Portage Creek

South Naknek

Togalak

We need your help. We understand that the Department of Law has funding for an additional full time D.A. and is likely to assign that position to an area that already has a resident office with at least one full time prosecutor. We ask that the Department assign that full time position to Bristol Bay and give the half-time position we now have to another jurisdiction to augment their already existing staff.

Three Hills

Ugabik

Rep. Carl E. Moscos
Page 2
February 29, 1996

This seems a fair, equitable and cost effective solution. If the Department of Law does not agree, we ask that you carefully scrutinize both their policy and fiscal arguments against such a plan. The information we've seen from the Department thus far regarding Bristol Bay case load and cost comparisons of providing services has been both biased and inaccurate. We would be happy to assist in your analysis of their arguments if you feel as though our insights on their derivative statistics might be helpful.

Our second/secondary request concerns the establishment of a Superior Court in our Region. During a February 26 public hearing in Dillingham, Attorney General Botelho pointed out that, historically, Bristol Bay had been the only area of the state without a Superior Court that had a resident D.A. He argued that the absence of a Superior Court played a large role in persuading him to withdraw the position. He said that he would assign a full time resident D.A. if we had a Superior Court and outlined the steps that had to be taken to make it so.

While we remain convinced that the bulk of the prosecution problems we are currently experiencing (particularly that community values be reflected in our justice system and that the system engender the respect for justice that our system should deserve) will be substantially alleviated by the relocation of a full time Bristol Bay D.A. position - our communities would clearly benefit from the long overdue establishment of a regional Superior Court. Therefore we request that you introduce a Committee Bill which would accomplish this purpose and that you expedite consideration of the measure through the legislative process this year.

There are several factors which favor establishing a Superior Court in the Bay. The Court House in Dillingham was constructed with the assumption that a Superior Court would be assigned to the Bristol Bay Region - so the physical accommodations are already in place. Art Snowden said he will support the establishment of a Superior Court for the Bay and Aleutian Region (he made the same assurance years ago if we were to secure an air transport link between Dutch Harbor and the Bay). Attorney General Botelho said that Superior Court Presiding Judge Karl Johnstone has indicated his support for establishment of a regional court. The Department of Law has assured us that we will get a full time resident D.A. if we have a Superior Court. The overburdened Anchorage Court system will benefit by having Bristol Bay cases handled here instead of there. Finally, the people of our Region need and deserve responsive, appropriate, and accountable

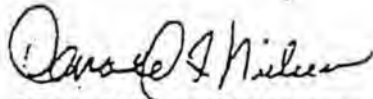
Rep. Carl E. Moses
Page 3
February 29, 1996

criminal justice services. The best way to accomplish that goal is to provide the people a Superior Court where their needs can be met locally, expeditiously, and fairly.

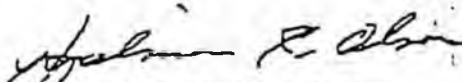
It's been said that justice delayed is justice denied. So is justice at a distance. Justice on the run, sandwiched between Anchorage calendars and plane schedules is no way to run a court. Half a District Attorney who doesn't live in the community cannot hope to understand and address the attitude that there is a double standard of justice in Dillingham, much less meet the needs of the people he is supposed to serve.

We deserve better than that and look forward to your positive response to our request.

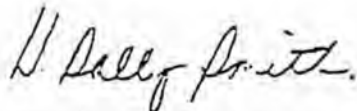
Sincerely,



Donald Nielsen, President
Bristol Bay Native Association



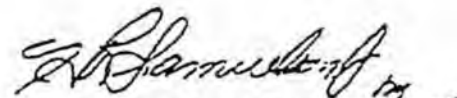
Hjalmar Olson, President
Bristol Bay Native Corporation



H. Sally Smith, President
Bristol Bay Area Health Corporation



William Tennyson, Chairman
Bristol Bay Housing Authority



Robin Samuelsen, President
Bristol Bay Economic Development Corporation

TOTAL P.04

TOTAL P.04



4/11/96

Senator Rick Halford
Co-Chair Senate Finance Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Halford:

Several weeks ago, 80 to 90 community members met with Bruce Botelho, Laurie Otto, and Ken Goldman to air their concerns about the need to reestablish the District Attorneys office here.

Speaker after speaker expressed their concerns that too many Dillingham cases were being dismissed by the Anchorage District Attorney's office. They stated that this practice does not send the right message because there is little threat of punishment and no incentive to mend ones ways.

Mr. Goldman suggested that the high dismissal rate was caused by improperly prepared cases. This was quite a surprise because we have seen nothing to date to support this contention. I suspect the truth in the matter lies elsewhere. When the District Attorney comes to town, he is extremely busy and very cognizant of airline schedules so he can get back to Anchorage for the weekend.

We mean no disrespect for the Anchorage office because I am sure they are overloaded with work and short on funding. However, the impact of not having local prosecutors and judges will be magnified in future felony cases because there case dismissal are sending the wrong message.

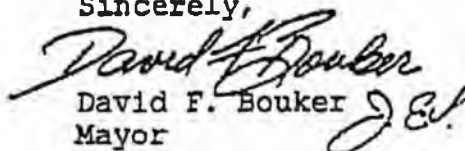
While the community's original intention were to ask for reinstatement of the District Attorney's office here, Mr. Botelho suggested that justice would be better served to ask for a Superior Court judge and this would automatically require a resident District Attorney. I might add that our courthouse had an office designated for a Superior Court Judge some fifteen years ago but it was never occupied.

In the meantime, the population and crime level has significantly increased.

We are pleased to note that Mr. Botelho's office is supporting your bill SB320 and are gratified that you have taken the time to listen to us. This effort will not only have a beneficial impact on Dillingham but, on all of the communities in Southwestern Alaska.

Thank you again.

Sincerely,


David F. Bouker
Mayor

FISCAL NOTE

No. 1

**STATE OF ALASKA
1996 LEGISLATIVE SESSION**

Bill Version: SB 320

(S) Publish Date: 4/15/96

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: New superior court judge for Dillingham BRU: Trial Courts
 Sponsor: Senate Finance Component: _____
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	201.8	201.8	201.8	201.8	201.8	201.8
TRAVEL						
CONTRACTUAL						
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	23.0					
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	226.8	203.8	203.8	203.8	203.8	203.8
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	226.8	203.8	203.8	203.8	203.8	203.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	226.8	203.8	203.8	203.8	203.8	203.8

Estimate of any current year (FY 96) cost: None

Positions

Full-Time	2.0	2.0	2.0	2.0	2.0	2.0
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Agency: Alaska Court System Date: 04/01/96

Approved by: Arthur H. Snowden, II, Administrative Director Date: 04/01/96
 Agency: Alaska Court System

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

Alaska Court System

Fiscal Analysis

SB 320

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Superior Court Judge, PFT, 12 months, Dillingham	\$103,596	\$52,795	\$156,391
In-Court Clerk/Secretary, range/step 12A, PFT, 12 months, Dillingham	31,824	13,549	<u>45,373</u>
Total Personal Services			<u>201,764</u>

Supplies

Office supplies for new positions			<u>2,000</u>
-----------------------------------	--	--	--------------

Equipment (one-time cost)

Desk, chair, filing cabinet and computer equipment for new positions			7,000
Conversion of public law library to electronic format			<u>16,000</u>
Total Equipment			<u>23,000</u>

Estimated Total Cost 226,764

S B

3 2 1

HOUSE CS FOR SENATE BILL NO. 321(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to incompetency to stand trial."**

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

3 *** Section 1. AS 12.47.100 is repealed and reenacted to read:**

4 Sec. 12.47.100. **INCOMPETENCY TO PROCEED.** (a) A defendant who, as
5 a result of mental disease or defect, is incompetent because the defendant is unable to
6 understand the proceedings against the defendant or to assist in the defendant's own
7 defense may not be tried, convicted, or sentenced for the commission of a crime so
8 long as the incompetency exists.

9 (b) If, before imposition of sentence, the prosecuting attorney or the attorney
10 for the defendant has reasonable cause to believe that the defendant is presently
11 suffering from a mental disease or defect that causes the defendant to be unable to
12 understand the proceedings or to assist in the person's own defense, the attorney may
13 file a motion for a judicial determination of the competency of the defendant. Upon
14 that motion, or upon its own motion, the court shall have the defendant examined by
15 at least one qualified psychiatrist or psychologist, who shall report to the court

1 concerning the competency of the defendant. For the purpose of the examination, the
2 court may order the defendant committed for a reasonable period to a suitable hospital
3 or other facility designated by the court. If the report of the psychiatrist or
4 psychologist indicates that the defendant is incompetent, the court shall hold a hearing,
5 upon due notice, at which evidence as to the competency of the defendant may be
6 submitted, including that of the reporting psychiatrist or psychologist, and make
7 appropriate findings. Before the hearing, the court shall, upon request of the
8 prosecuting attorney, order the defendant to submit to an additional evaluation by a
9 psychiatrist or psychologist designated by the prosecuting attorney.

10 (c) A defendant is presumed to be competent. The party raising the issue of
11 competency bears the burden of proving the defendant is incompetent by a
12 preponderance of evidence. When the court raises the issue of competency, the burden
13 of proving the defendant is incompetent shall be on the party who elects to advocate
14 for a finding of incompetency. The court shall then apply the preponderance of the
15 evidence standard to determine whether the defendant is competent.

16 (d) A statement made by the defendant in the course of an examination into
17 the person's competency under this section, whether the examination is with or without
18 the consent of the defendant, may not be admitted in evidence against the defendant
19 on the issue of guilt in a criminal proceeding unless the defendant later relies on a
20 defense under AS 12.47.010 or 12.47.020. A finding by the judge that the defendant
21 is competent to stand trial in no way prejudices the defendant in a defense based on
22 insanity; the finding may not be introduced in evidence on that issue or otherwise be
23 brought to the notice of the jury.

24 (e) In determining whether a person has sufficient intellectual functioning to
25 adapt or cope with the ordinary demands of life, the court shall consider whether the
26 person has obtained a driver's license, is able to maintain employment, or is competent
27 to testify as a witness under the Alaska Rules of Evidence.

28 (f) In determining if the defendant is unable to understand the proceedings
29 against the defendant, the court shall consider, among other factors considered relevant
30 by the court, whether the defendant understands that the defendant has been charged
31 with a criminal offense and that penalties can be imposed; whether the defendant

1 understands what criminal conduct is being alleged; whether the defendant understands
2 the roles of the judge, jury, prosecutor, and defense counsel; whether the defendant
3 understands that the defendant will be expected to tell defense counsel the
4 circumstances, to the best of the defendant's ability, surrounding the defendant's
5 activities at the time of the alleged criminal conduct; and whether the defendant can
6 distinguish between a guilty and not guilty plea.

7 (g) In determining if the defendant is unable to assist in the defendant's own
8 defense, the court shall consider, among other factors considered relevant by the court,
9 whether the defendant's mental disease or defect affects the defendant's ability to
10 recall and relate facts pertaining to the defendant's actions at times relevant to the
11 charges and whether the defendant can respond coherently to counsel's questions. A
12 defendant is able to assist in the defense even though the defendant's memory may be
13 impaired, the defendant refuses to accept a course of action that counsel or the court
14 believes is the defendant's best interest, or the defendant is unable to suggest a
15 particular strategy or to choose among alternative defenses.

16 * Sec. 2. AS 12.47.110(a) is amended to read:

17 (a) When the trial court determines by a preponderance of the evidence, in
18 accordance with AS 12.47.100, that a defendant is so [MENTALLY] incompetent that
19 the defendant is unable to understand the proceedings against the defendant or
20 [PROPERLY] to assist in the defendant's own defense, the court shall order the
21 proceedings stayed, except as provided in (d) of this section, and may commit the
22 defendant to the custody of the commissioner of health and social services or the
23 commissioner's authorized representative for further evaluation and treatment until the
24 defendant is mentally competent to stand trial, or until the pending charges against the
25 defendant are disposed of according to law, but in no event longer than 90 days.

26 * Sec. 3. AS 12.47.130 is amended by adding new paragraphs to read:

27 (4) "assist in the defendant's own defense" means to consult with a
28 lawyer while exercising a reasonable degree of rational functioning;

29 (5) "incompetent" means a defendant is unable to understand the
30 proceedings against the defendant or to assist in the defendant's own defense;

31 (6) "understand the proceedings against the defendant" means that the

1
2

defendant's elementary mental process is such that the defendant has a reasonably rational comprehension of the proceedings.

(7)

Date Referred to Committee: April 17, 1996

FURTHER REFERRALS:

Date of Committee Action: 4/22/96

The JUDICIARY Committee considered:

SB 321 am

SENATE BILL NO. 321 am

COMMIT MENTALLY INCOMPETENT DEFENDANT

"An Act relating to incompetency to stand trial."

recommends it be replaced with the following committee substitute CSHB SB (JUD) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) Courts fiscal note(s) _____

zero fiscal note(s) HSS zero fiscal note(s) Law (4-11-96) CPA 4-11-96

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE Brian D. Porter

LEGAL SERVICES

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Mail Stop 3101

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

MEMORANDUM

April 23, 1996

SUBJECT: Incompetency to Stand Trial (HCS SB 321(JUD))

TO: Representative Brian Porter
Attn: Tom Meyer

FROM: Terri Lauterbach
Legislative Counsel



Enclosed is the HCS you requested for this bill.

The committee's amendment does not belong in the definition of "mental disease or defect" because it is a substantive provision relating to the court's determination. Substantive provisions, according to the legislative drafting manual, are inappropriate in definitions. Therefore, I have added the committee's language as a new subsection (e) on page 2 of the HCS, and I have deleted sec. 3 of SB 321 am. As you will notice, subsections (f) and (g) on pages 2 - 3 also relate to determinations involved in applying other definitions (see terms defined in sec. 3 of the HCS). The new subsection (e) is the same type of substantive provision.

Please let me know if you have questions about this matter.

TML:pl:klb
96-132.plm

Enclosure

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 321 (am)

Revision Date: _____
Title: An Act Relating to Incompetency to Stand Trial

Dept. Affected: Health and Social Services
BRU: MH/DD Services

Sponsor: Senate Judiciary
Requestor: _____

Component: Alaska Psychiatric Institute
COMPONENT SERIAL NO. 311
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
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)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

The revision to SB 321 will change the fiscal impact to the Department as it will no longer have to increase the size of API through the creation of a special unit to serve developmentally disabled consumers who are found to be "incompetent to stand trial." This will remain the case unless changes are made that would remand to the Commissioner individuals who are developmentally disabled and found to be "incompetent to stand trial." These individuals are not appropriate for API and will need to be served through a comprehensive community based "wrap around" program.

(continued on next page)

Prepared by: Derrill Johnson *DJR*
Division: DMH&DD

Phone: 465-3370
Date: 04/18/96

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Date: 4/18/96

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ANALYSIS (cont.):

Comments:

If such a change were to be made, then a fiscal impact would be felt and the Department would need additional resources. This is based on the experience of the Division of Mental Health and Developmental Disabilities and their service provider network. The DD system has had considerable experience and success in providing services to behaviorally challenged individuals with comprehensive community based "wrap around" services and find that the cost of such services will average around \$100,000.00 annually per individual remanded to the Department. This breaks out to a daily per diem rate of \$274/day vs. the daily rate at API of \$507.82/day for Medicaid eligible consumers and \$682.00/day for those not Medicaid eligible. Furthermore, the Department anticipates that if such a change is implemented there is a potential population of 10 to 15 individuals who would enter the system within the first two years. The financial resources needed to serve this group of developmentally disabled individuals would have to come from a new appropriation of funds as the Department does not have any funds available. Without new funding the Department would have to remove existing consumers from services to provide the needed comprehensive "wrap around" services for those found to be "incompetent to stand trial."

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 321 AM

Revision Date: 04/19/96 Dept. Affected: Alaska Court System
 Title: Civil Commitments BRU: Trial Courts
 Sponsor: Senate Judiciary Component: _____
 Requestor: _____ COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL						

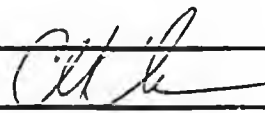
Estimate of any current year (FY 96) cost: None

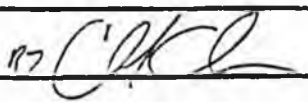
Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Fiscal Impact is not determinable with current information. See attached narrative.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 04/19/96

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 04/19/96
 Agency: Alaska Court System

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Alaska Court System
Fiscal Analysis
SB 321 AM

SB 321 AM rewrites AS 12.47.100, relating to the competency of criminal defendants to stand trial. These revisions will have the effect of making it easier for the state to prove competency of individuals who might have been found incompetent under existing law (such as certain mentally retarded persons).

Experience indicates that this legislation will change the competency status of an average of one person per year. A majority of the time, that person will be found competent and will stand trial. Sometimes, the person will be found incompetent and committed to the custody of the commissioner of the Department of Health and Human Services for a period of time. The underlying offense will be different for each defendant, and thus length and complexity of the additional trial cannot be predicted. Therefore, this note does not reflect costs for an additional jury trial per year.

Alaska State Legislature

Chairman,
Judiciary Committee

Vice Chairman,
Transportation Committee

Member,
Resources Committee
Western Legislative Forestry Task Force



Senator Robin L. Taylor

State Capitol
Juneau, Alaska 99801-1182
907-465-3873
Fax 907-465-3922

352 Front Street
Ketchikan, Alaska 99901
907-225-8088
Fax 907-225-0713

SPONSOR STATEMENT

Senate Bill 321

Senate Bill 321 was introduced to close a loop-hole in existing law that prevents the civil commitment of those ruled mentally incompetent to stand trial on a criminal charge, but who still pose a danger to others.

Under current law, the defendant in a criminal case can be committed for up to two 90-day periods if they have been found incompetent to stand trial. If, at that point, the defendant is still not competent and it appears they will not become competent, they must be released from the criminal justice system. Commitment at that point is governed by the civil courts.

SB 321 originally proposed to change the definition of mental illness to allow for the civil commitment of these individuals. The Department of Law suggested that the law governing a determination of incompetency is the problem and the bill was amended in the Senate.

As transmitted to the House, SB 321 addresses inappropriate applications of the mental incompetency standard. It seeks to assure that individuals who possess a sufficient degree of understanding of the criminal process will be held accountable for their criminal conduct.

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Mail Stop 3101


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

MEMORANDUM

April 3, 1996

SUBJECT: Involuntary Commitments (Work Order No. 9-LS1836\A)

TO: Senator Robin Taylor
Attn: Joe Ambrose

FROM: Terri Lauterbach 
Legislative Counsel

Enclosed is a work draft on the subject you requested.

Based on the additional details you provided, Jerry Luckhaupt and I took a look at the statutes relating to commitment of criminal defendants who are found to be incompetent to stand trial. Under AS 12.47.110, they can be committed for up to two 90-day periods. If they are still not competent for trial after that time and don't look like they'll become competent, AS 12.47.110(b) says they have to be released from the criminal system and commitment thereafter is "governed by" the civil commitment statutes in AS 47.30.700 - 47.30.915.

It looks to me like the problem with the cases you have mentioned is that the definitions applicable in the criminal system don't jibe exactly with the definitions in the civil system so that some incompetent defendants cannot be picked up by the civil commitment procedures because they may be mentally incompetent for criminal purposes, but are not mentally ill as that term is currently defined in AS 47.30. Mental incompetency is determined under AS 12.47.100(a) based on a mental disease or defect, which is a broader category than "mental illness" under AS 47.30, particularly with regard to the inclusion of mental retardation.

So, what this draft does is amend the definition of "mental illness" applicable to civil commitments so that incompetent criminal defendants can be civilly committed. The draft does this by providing that, for the limited purpose of committing these defendants, "mental illness" includes "mental disease or defect" as that term is used in the criminal system. As drafted, this change would not apply to any other mentally retarded or otherwise incompetent people, only to criminal defendants who have already had due process protections in the criminal system under AS 12.47.

Senator Robin Taylor

April 3, 1996

Page 2

While this draft appears to me to correct what could be called a misfit between AS 12.47.110(b) and AS 47.30, I encourage you to have this language reviewed by others who may be in a better position to know if it would solve the problems you have pointed out. If further information indicates that this draft would not fix the relevant situations, please let me know, and we can try again with advice from those more closely involved with the situations.

For your information, this memo includes copies of AS 12.47.100(a), 12.47.110(b), and the definition of "mental disease or defect" used in AS 12.47. The definition of "mental illness," of course, is in the draft itself.

AS 12.47.100(a). A defendant who as a result of mental disease or defect lacks capacity to understand the proceedings against the defendant or to assist in the defendant's own defense may not be tried, convicted, or sentenced for the commission of a crime so long as the incapacity exists.

AS 12.47.110(b). On or before the expiration of the initial 90-day period of commitment the court shall conduct a hearing to determine whether or not the defendant remains incompetent. If the court finds by a preponderance of the evidence that the defendant remains incompetent, the court may recommit the defendant for a second period of 90 days. The court shall determine at the expiration of the second 90-day period whether the defendant has become competent. If at the expiration of the second 90-day period the court determines that the defendant continues to be incompetent to stand trial, the charges against the defendant shall be dismissed without prejudice and continued commitment of the defendant shall be governed by the provisions relating to civil commitments under AS 47.30.700 - 47.30.915 unless the defendant is charged with a crime involving force against a person and the court finds that the defendant presents a substantial danger of physical injury to other persons and that there is a substantial probability that the defendant will regain competency within a reasonable period of time, in which case the court may extend the period of commitment for an additional six months. If the defendant remains incompetent at the expiration of the additional six-month period, the charges shall be dismissed without prejudice and either civil commitment proceedings shall be instituted or the court shall order the release of the defendant. If the defendant remains incompetent for five years after the charges have been dismissed under this subsection, the defendant may not be charged again for an offense arising out of the facts alleged in the original charges, except if the original charge is a class A felony or unclassified felony.

Senator Robin Taylor

April 3, 1996

Page 3

AS 12.47.130(3). "mental disease or defect" means a disorder of thought or mood that substantially impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life; "mental disease or defect" also includes mental retardation, which means a significantly below average general intellectual functioning that impairs a person's ability to adapt to or cope with the ordinary demands of life.

TML:pl:klb

96-107.plm

Enclosure

DEPARTMENT OF LAW

CRIMINAL DIVISION

April 14, 1996

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3428
FAX: (907) 465-4043

OFFICE OF SPECIAL PROSECUTION AND APPEALS

310 K STREET, SUITE 308
ANCHORAGE, ALASKA 99501-3054
PHONE: (907) 269-6250
FAX: (907) 269-6270

The Honorable Robin Taylor
Alaska State Senate
State Capitol
Room 30
Juneau, Alaska 99801-1182

Re: SB 321

Dear Senator Taylor:

We very much appreciate your efforts to fix the problem in the current statutes with the application of the standard for finding persons incompetent to stand trial on criminal charges. As we have discussed, we very much would like to fix the problem, but believe that SB 321 in its current form will make the problem worse rather than better.

For the past week, I have had the head of the Office of Special Prosecutions and Appeals working with prosecutors around the state to determine if our problem is the inability to civilly commit incompetent defendants for long enough periods of time, or whether our problem is that the mentally incompetent standard is being used in inappropriate cases to excuse criminal conduct. We have also extensively researched the case law and statutes from around the country to see how Alaska's laws compare.

After completing this effort, we are convinced that the problem is inappropriate application of the mentally incompetent standard. For that reason, we respectfully request that you consider deleting the current language in SB 321 and inserting the attached language. The proposed amendment will ensure that individuals who possess a sufficient degree of understanding of the criminal process, such as the defendant described during the Senate Judiciary Committee hearing, will be held accountable for

The Hon. Robin Taylor
Alaska State Senate

April 14, 1996
Page 2


their criminal conduct. In addition, it would be of great assistance to us in applying the law if the legislature adopted the proposed Senate Letter of Intent.

I have discussed the proposed amendment with the Director of the Division of Mental Health and the Special Assistant to the Commissioner of Health and Social Services, and am advised that they support the amendment as drafted. We jointly urge you to take steps to amend SB 321 on the floor of the Senate as outlined in the attached amendment.

Thank you in advance for your consideration of this request.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Laurie H. Otto
Deputy Attorney General

LHO:jf

cc: Pat Pourchot, Legislative Director
Office of the Governor

Karen Perdue, Commissioner
Department of Health and Social Services

Department of Law's Proposed Amendment to SB 321:

Page 1, lines 1-13: Delete all material and insert:

"An Act relating to incompetency to stand trial."

***Section 1.** AS 12.47.100 is repealed and reenacted to read:

AS 12.47.100. INCOMPETENCY TO PROCEED. (a) A defendant who, as a result of mental disease or defect, is incompetent because the defendant is unable to understand the proceedings against the defendant or to assist in the defendant's own defense may not be tried, convicted, or sentenced for the commission of a crime so long as the incompetency exists.

(b) If, before imposition of sentence, the prosecuting attorney or the attorney for the defendant has reasonable cause to believe that the defendant is presently suffering from a mental disease or defect that causes the defendant to be unable to understand the proceedings or to assist in the person's own defense, the attorney may file a motion for a judicial determination of the competency of the defendant. Upon that motion, or upon its own motion, the court shall have the defendant examined by at least one qualified psychiatrist or psychologist, who shall report to the court concerning the competency of the defendant. For the purpose of the examination the court may order the defendant committed for a reasonable period to a suitable hospital or other facility designated by the court. If the report of the psychiatrist indicates that the defendant is incompetent, the court shall hold a hearing, upon due notice, at which evidence as to the competency of the defendant may be submitted, including that of the reporting psychiatrist, and make appropriate findings. Prior to the hearing, the court shall, upon request of the prosecuting attorney, order the

defendant to submit to an additional evaluation by a psychiatrist or psychologist designated by the prosecuting attorney.

(c) A defendant is presumed to be competent. The party raising the issue of competency bears the burden of proving the defendant is incompetent by clear and convincing evidence. When the court raises the issue of competency, the burden of proving the defendant is incompetent shall be on the party who elects to advocate for a finding of competency. The court shall then apply the clear and convincing evidence standard to determine whether the defendant is competent.

(d) A statement made by the defendant in the course of an examination into the person's competency under this section, whether the examination is with or without the consent of the defendant, may not be admitted in evidence against the defendant on the issue of guilt in a criminal proceeding unless the defendant later relies on a defense under AS 12.47.010 or 12.47.020. A finding by the judge that the defendant is competent to stand trial in no way prejudices the defendant in a defense based on insanity; the finding may not be introduced in evidence on that issue or otherwise be brought to the notice of the jury.

(e) In determining if the defendant is unable to understand the proceedings against the defendant, the court shall consider, among other factors deemed relevant by the court, whether the defendant understands that the defendant has been charged with a criminal offense and that penalties can be imposed; whether the defendant understands what criminal conduct is being alleged; whether the defendant understands the roles of the judge, jury, prosecutor and defense counsel; whether the defendant understands that the defendant will be expected to tell defense counsel the circumstances, to the best of the defendant's ability, surrounding the defendant's activities at the time of the alleged criminal conduct; and whether the defendant can distinguish between a guilty and not guilty plea.

(f) In determining if the defendant is unable to assist in the defendant's own defense, the court shall consider, among other factors deemed relevant by the court, whether the defendant's mental disease or defect affects the defendant's ability to recall and relate facts pertaining to the defendant's actions at times relevant to the charges and whether the defendant can respond coherently to counsel's questions. A defendant is able to assist in the defense even though the defendant's memory may be impaired, the defendant refuses to accept a course of action which counsel or the court believe is in the defendant's best interest, or the defendant is unable to suggest a particular strategy or to choose among alternative defenses.

Sec. 2. AS 12.47.110(a) is amended to read:

(a) When the trial court determines [BY A PREPONDERANCE OF THE EVIDENCE] in accordance with AS 12.47.100, that a defendant is so [MENTALLY] incompetent that the defendant is unable to understand the proceedings against the defendant or [PROPERLY] to assist in the defendant's own defense, the court shall order the proceedings stayed, except as provided in (d) of this section, and may commit the defendant to the custody of the commissioner of health and social services or the commissioner's authorized representative for further evaluation and treatment until the defendant is mentally competent to stand trial, or until the pending charges against the defendant are disposed of according to law, but in no event longer than 90 days.

Sec. 3. AS 12.47.130 is amended to read:

AS 12.47.130. DEFINITIONS. In this chapter

(1) "affirmative defense" has the meaning given in AS 11.81.900(b);

(2) "assist in the defendant's own defense" means to consult with a lawyer while exercising a reasonable degree of rational functioning;

(3) [(2)] "culpable mental state" has the meaning given in AS 11.81.900(b);

(4) "incompetent" means a defendant is unable to understand the proceedings against the defendant or to assist in the defendant's own defense;

(5)[(3)] "mental disease or defect" means a disorder of thought or mood that substantially impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life; "mental disease or defect" also includes mental retardation, which means a significantly below average intellectual functioning that impairs a person's ability to adapt to or cope with the ordinary demands of life; a person who has obtained a driver's license, has voted in an election, is able to maintain employment, or is competent to testify as a witness under the Alaska Rules of Evidence is considered to have sufficient intellectual functioning to adapt or cope with the ordinary demands of life;

(6) "understand the proceedings against the defendant" means that the defendant's elementary mental processes are such that the defendant has a reasonably rational comprehension of the proceedings.

50.321



stern-looking people.
"That ad got me in trouble with my wife,"
said Bruce Scott, MFA spokesman who Anne
Hays of the International Brotherhood of
Electrical Workers (IBEW) calls her "coun-

acts of "terrorists."
In a response to that statement, Brooks
said Folsom "was labeling MFA employees
as terrorists."
(Please see MUD, Page 3)

Child molester will not stand trial

By KRISTEN SEINE
Alaska Star Reporter

Mary said.
On Nov. 16, the family gathered at the
church for a Bible study/potluck. Mary and
her husband sat at one table with the other
adults, while her daughter and two other chil-

Mary (not her real name) was a mother



who had done everything possible to protect
her 5-year-old daughter from the world. She
thought she had done everything right.

And yet, last November as her mother sat
10 feet away in a room full of people ... in a
church, no less — the girl was molested. By
someone everyone thought they could trust.

Mary knew 37-year-old Zachary Stokes
well — he was developmentally disabled and
had the mind of a child, but as the son of her
church's pastor, often worked as an aide at
the Saturday Night Kids' Club, where Mary
taught 3- to 5-year-olds in a Sunday School-
like setting. "His job was to set up chairs and
tables, help with finger painting and the like,

children sat 10 feet away at another table with
Zachary.

At one point, just as the evening was fin-
ishing up, the girl called her mother over.
"She said, 'Zachary touched me in my private
parts.'"

"I looked at Zachary and he said, 'I'm
sorry. I only wanted to do it one time,'" Mary
said.

Apparently, however, that wasn't entirely
true. Mary was later to find that her daughter
was Zachary's fourth victim.

"He has never denied it," Mary said.
"And, you know ... what kills me is that ev-
erybody, all of us, were in the same room.

side the Anchorage Westward

ACASEA STAR - PAGE 1
4/7/96

COMPLIMENTS OF
SENATOR ROBIN L. TAYLOR

... was not mentally incompetent

(Continued from Page 1)
We never had any idea."

Mary said when she and her husband approached the pastor and his wife -- Zachary's parents -- they apologized, but then asked that they "keep quiet about this because it was a problem (Zachary) had." Instead, Mary and her husband called both the police and the Department of Youth and Family Services.

Zachary was arrested and charged with three counts of indecent exposure and one count of second-degree sexual abuse of a minor, said state prosecutor Susan Wibker. He was then released to the custody of his parents.

Zachary's father was contacted Monday, but did not wish to comment.

A few days later, Mary's house was vandalized in the early hours of the morning. A neighbor told her he actually chased Zachary down the street, she said. "We tried to get a restraining order put on him, but we were told you can only get one against a member of your own family," she added.

It was the first of several disappointments for Mary's family.

Two evaluations by separate psychologists found Zachary to be incompetent to stand trial. Therefore, the entire case against him was dismissed. Furthermore, Mary learned that there is not a mandatory lock-up facility for such violators.

"He's free right now," Mary said. "Even though they know he's molested four kids, exposed himself ... both the detective and the prosecutor told me, if he does this again he's going to get off again."

That was last Thursday. "I had remained quiet until then," she said.

"I really, really needed to believe the system was going to take care of this."

Wibker explained why her office had to drop the case.

"The guy has an IQ of 35," she said. "He's mentally retarded."

"The Constitution says you cannot try someone who's not mentally competent to stand trial. You can't put people like that in jail. We have to dismiss the charges."

"He's free right now, even ... though they know he's molested four kids, exposed himself ... both the detective and the prosecutor told me, if he does this again he's going to get off again."

— "Mary"
victims mother

"By law, I cannot proceed," Wibker said. "Whatever can happen in this case, it won't happen in the district attorney's office."

Dr. David Sperbeck, forensic and clinical psychologist for the Department of Corrections, said, "In Alaska, competency to stand trial is easily defined by the ability to communicate -- to cooperate with counsel, to evaluate advice from counsel, to make decisions regarding the decision at hand, i.e. how to plea, whether to plea, whether to testify, that type of thing."

"There are a lot of people who are developmentally disabled who can stand trial. The main issue is, can they participate in their own defense?"

It was determined that Zachary could not, he said.

For people in Zachary's situation, Sperbeck said, "There are numerous safety nets funded by the Department of Health and Social Services to protect society from dangerous mentally disabled persons."

However, such institutions are strictly voluntary. It is up to the guardian of the person whether to send them to such an institution or not, unless the person is considered an "immediate danger."

And that, Sperbeck said, "is a judgment call by whatever mental health professional examines him."

In his personal opinion, Sperbeck said, "there seems to be a moral and legal obligation of the guardian to maintain a vigilance that will protect the developmentally disabled person -- as well as the public."

In Mary's view, Zachary's parents had that chance.

"It's very scary to realize that something like this can happen. And there isn't really even a lesson that can be learned -- if your child gets kidnapped because they were out playing unsupervised, you can learn not to do that."

"And that's what makes Zachary so dangerous," she said. "Because he did this in front of so many people. He is so brazen about it."

What Mary wants to know at this point is why there is no mandatory mental institution or facility for sex offenders who are not competent enough to stand trial such as Zachary. For now, she said, "He has a get-out-of-jail card and a license to molest other children."

95-910 CR (11-11-55)

Date of birth

original story
written 7-14-95

Ridley charged with sex offense

<body text>Clifton Ridley, 39, of Ketchikan, was charged with second-degree sexual assault, fourth-degree assault and fourth-degree theft in a criminal complaint filed Friday. Ketchikan police said the charges were based on statements of Officer Brian Kertz. Ridley allegedly placed his hand between a girl's legs and grabbed her buttocks and vagina through her clothing. The alleged victim told Kertz that Ridley approached her after she pushed him away and again placed his hand between her legs and again grabbed her in the same places through her clothing. The girl said she didn't know Ridley and that he had no right to touch her.

The second charge was based on statements of a woman who said Ridley grabbed her shoulders and told her that he was going to cut her up, rape her, and enjoy her body, according to court records. Sanchez said Ridley put his head and shoulders in place to prevent her from shutting her car door and that Ridley placed her in fear for her safety.

The theft charge was based on a statement of a woman who said Ridley left Carrs through a back door and removed a bottle of orange juice from his coat pocket. He then removed another bottle from his coat when the woman confronted him outside the store.

Ridley remained in custody Friday in lieu of \$10,000 bail.

5B 321

page B-1

ALASKA

Knowles introduces domestic violence bill

page B-1

page A-3

ly News

75 Cents

Judge releases legally incompetent mental patient to Ketchikan

By TOM MILLER
Daily News Staff Writer

A felony sex charge, and misdemeanor assault and theft charges against a 40-year-old Ketchikan man were dismissed Tuesday and he will be transported from the Alaska Psychiatric Institute and released in Ketchikan.

Ketchikan Superior Court Judge Thomas Jahnke made that decision after hearing evidence in a Dec. 21 hearing to determine whether Clifton L. Ridley was legally competent to stand trial.

Ketchikan District Attorney Ben Herrensaid Thursday that Ridley would be free when he reached Ketchikan.

Ketchikan police arrested Ridley on July 13 and charged him with second-degree sexual assault, fourth-degree assault and fourth-degree theft.

He allegedly grabbed the shoulders of a woman in the Carr's Quality Center parking lot and told her he was going to cut her up, rape her and enjoy her body, according to court records.

In the sexual assault charge, Ridley allegedly put his hand between a girl's

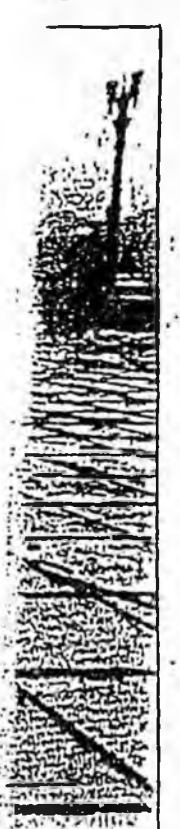
legs inside the Carr's store, according to police records. He then allegedly grabbed the girl's buttocks and vagina through her clothing. The alleged victim told a police officer that Ridley approached her again after she pushed him away and grabbed her in the same places through her clothing. The girl said she didn't know Ridley and said he had no right to touch her, according to the record.

The theft charge was based on an allegation that Ridley stole two bottles of orange juice from the store.

Ridley has undergone a lengthy period of commitment at the Alaska Psychiatric Institute since July, according to a Tuesday memorandum from Jahnke. Dr. Graydon Forrer of API had said Ridley was unable to understand the nature of the charges or to assist in his own defense, Jahnke wrote.

A second opinion came from Dr. Irvin Rothrock of the Fairbanks Psychiatric and Neurological Clinic. Rothrock examined Ridley and his medical record and said the defendant

See 'Ridley,' page A-2



of the work
e Mill dock.

by Hall Anderson

ly await new post office

The Klawock post office is located in a dead-end street, below the totem pole mark and next to

take that long. "We were hoping sooner," he said. He had no figures on the size of space being

ALASKA

Free tax preparation training will be offered by the American Association of Retired Persons in January at the U.S. Coast Guard base.

Classes will be held 9 a.m. to 5 p.m. Jan. 15, and from 6:30-9:30 p.m. Jan. 16-19. Sessions will be held in the second floor training room at the base.

For information and class signups can be obtained by calling Mary Milburn at home.

Ridley

could understand and help defend himself with the aid of "directed questioning" by his lawyer, Jahnke wrote.

Jahnke listened to the doctors and Ridley's testimony and attorneys' arguments at the Dec. 21 hearing.

Public Defender Barbara Kissner asked Forrer if he could ask questions of Ridley and get answers.

"You can ask questions and you get answers but the problem is that the answers oftentimes are impossible to translate because of his speech style and his looseness of association," Forrer said. "That's where the difficulty lies."

Forrer told Herren that Ridley is "constantly and chronically" mentally ill. The doctor said he knew of people who had altered their personalities to avoid prosecution but didn't believe Ridley was doing that.

Kissner called Ridley to testify by telephone. She asked how long he had been at API. Ridley said he had been there for five months. Then Kissner asked how he was doing. Ridley answered in a rambling series of statements and partial statements about the care he was receiving at API.

Herren did not cross-examine Ridley.

Rothrock told Herren that he had

Continued from page A-1

Barbie and Legos.

Bob Nedzwecky, manager at Videll Video, said top-selling electronics items at his store were new CD game formats: Sony Playstation and Sega Saturn.

There's plenty of water in the lakes to provide power, but if a major breakdown occurs, such as a break in the Swan Lake hydroelectric plant power line to town, Ketchikan demand could exceed KPU's ability to supply it, he said. KPU's electrical division was strained in October when demand was high and capacity was impaired by a broken generator and broken Swan Lake power line.

Interviewed Ridley for an hour. During a discussion, Ridley would wander off the topic "if you let him," said Rothrock, but it was easy to bring him back to it. Ridley understood what lawyers and judges do and knew that several pleas were available in a criminal case — but he didn't seem to understand the no contest plea, said the doctor.

Rothrock said he felt that Ridley was dishonest in part of the interview and said he had a record of not taking medications at times when he was an outpatient served by Gateway Human Services.

If Ridley had been his patient, he would have treated him more aggressively than apparently had been the case, said Rothrock.

A person can be psychotic and legally competent at the same time, said Rothrock.

In her argument to the court, Kissner said Forrer had said that if Ridley had been committed to API in a civil action, he would have been discharged and sent back to Ketchikan by now.

Kissner said she had talked with Ridley by telephone while he was at API.

"Various conversations over the past few months have led nowhere," she said.

In an affidavit, she said, "As an officer of the court, I feel I am ethically obligated not to participate in a criminal proceeding with a client who is so mentally ill that I am unable to speak with him about the matter. I believe public policy supports the notion not to prosecute the mentally ill."

... heavy and don't float."

In Zagreb, the Croatian capital, U.S. Army Lt. Gen. William G. Carter, a NATO force chief of staff, said he did not expect the timetable for the bridge to be affected unless the weather changes. Sections of the bridge are at the site, but construction has yet to begin.

The deployment from Germany has already been hampered by a shortage

American command in northeastern briefing in Tuzla he was "very" reports and was had no further

The New York senior Clinton administration saying that the true, "representing a bad judgment

Jahnke wrote in finds by a preponderance that the able to assist the court is the miss the charge

Jahnke ordered remain at API transportation his return to K

Newb

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Handwritten note: "Jahnke wrote in his decision... the court finds by preponderance of the evidence that the defendant remaining unable to assist in his own defense and the court is therefore required to dismiss the charges against the defendant... Jahnke ordered Ridley would stay at API, then returned to Ketchikan."

PETER D. HERAPER M.D.
Ear, Nose & Throat
SPECIALIST
will be in Ketchikan
at 128 Washington Street
Jan. 21 - Feb. 1
For an appointment call:
1-800-EARS-544
until Friday, January 19
thereafter call 247-4346

Death notice

ALASKA
Friday, Dec. 29
Alaska Weather Forecast
RUSSIA
Non
KETCHIKAN DAILY NEWS
STOWERS TALKING SHOP
The Associated Press Copyright

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Alaska Sur

FAX NO. 9072251096

P. 01

Joe, the last col-reads-

PRINTS

Thompson is a sports fan. He has been a softball umpire for more than 20 years and referees city league and high school football and basketball.

He said he supports the proposed Muldoon recreation center. But he thinks Mysterom's sports center proposal is too grandiose, and is wrongheaded for a city that is cutting sports programs out of the junior high schools.

The city could get more bang for the buck by renovating existing school facilities, he said. This could be as simple, he said, as installing backboards in elementary school gyms that can be raised higher to accommodate adult basketball.

His experience on the field would stand him well in government, Thompson said. "The more effective umpires know people. Even though all the calls you make are not agreeable, as long as people know you are fair they will accept it."

ABUSE CHARGES DROPPED DEFENDANT FOUND TO BE INCOMPETENT

By LIZ RUSKIN
Daily News reporter

Charges of child molestation and indecent exposure have been dismissed against a mentally retarded man who, according to lawyers and psychologists, is incompetent to stand trial.

Zachary Stokes, 37, lives with his parents in a Dimond Boulevard trailer park and until recently worked in the Anchorage School District's central kitchen. He was charged in January with sexually abusing a 5-year-old girl in November at a church function by putting his hand down her pants.

In the same charging document, Stokes also was accused of exposing himself to three girls, ages 5 to 7, in June in the trailer park.

Last week, however, prosecutor Susan Wibker dismissed all four charges.

Stokes "has been evaluated by mental health specialists and found to be incompetent," her office wrote in a March 28 letter to the mother of one of the girls. "As a result of this finding, the state's case against the defendant has been dismissed."

To be prosecuted, a defendant must be able to understand the court proceedings against him and be able to help in his own defense, according to state and federal law.

Once a defendant is deemed incompetent to stand trial, state law allows a judge to send him to Alaska Psychiatric Institute for up to six months, or up to a year if the crime involves force. There the defendant can be put through a "competency training" program that attempts, through education or mental health treatment or both, to bring the defendant to a level of understanding so that he can be tried. If a judge later determines he has become competent, the prosecution can proceed. If not, the charges are dropped and the defendant is released.

District Attorney Ken Goldman said Stokes is too mentally disabled to warrant going through that process.

"He's not competent, and there's no way in the world he's going to be made competent," Goldman said.

A psychologist who examined Stokes determined that he functions at the level of a 6 1/2-year-old, Goldman said, and Stokes' mother told authorities her son has an IQ of 35, according to the charging document.

"We couldn't look the judge straight in the eye" to ask that Stokes be put through competency training, Goldman said.

The prosecutors' assessment was based on an evaluation of Stokes by Joseph Federici, a psychologist hired by the public defender's office. Goldman said he forwarded the report to a second psychologist, David Sperbeck, who concurred that Federici's testing was valid.

The dismissal of the charges against Stokes, who had been free on bail, has frustrated the mother of the girl from the church incident. She has given television and radio interviews about the case to draw attention to what she sees as a hole in the system that gives people like Stokes a license to commit crimes. The mother declined to use her name in media accounts.

Sen. Robin Taylor responded by introducing a bill Thursday that attempts to make it easier to use civil laws to commit mentally incompetent defendants.

Stokes' lawyer, public defender Cathy Easter, said dismissing the charges against her client was the right thing to do.

"Unfortunately, you can't give Mr. Stokes ... a pill and make him understand any better," Easter said. She doesn't think the case illustrates a larger problem. In a decade at the public defender's office, she can't recall any other cases where charges were dropped against a defendant who was incompetent because of a developmental disability. And even if her client had been forced to stand trial, the state did not have a very strong case against

him, she said.

Sperbeck, who works for the Department of Corrections, also said a case like Stokes' is quite rare. Of the hundreds of child molestation cases charged in Alaska each year, about half a dozen are brought against developmentally disabled people. Of those, about one defendant per year is determined to be incompetent to stand trial, Sperbeck said.

Stokes worked at the school district's central kitchen, a job that did not put him in contact with children, from 1989 until he was dismissed March 25, district officials said.

At the church function, he sat opposite the 5-year-old girl at a table where other adults were seated. Stokes admitted to police that he reached under the table and put his hand down the girl's pants, the charging document said. He also admitted telling the girl not to report him or he'd get in trouble.

After the police started their investigation, the girl's parents called the police to tell them Stokes was throwing rocks at their house, the charges say.

His parents declined to be interviewed by the Daily News.

"There will be no comment," his father, Herman Stokes, said.

Stokes' mother told police her son has no sex drive and the November incident was the girl's fault, the charges say. While he admitted he exposed himself to three girls in June, he said the girls asked to see his genitals, and his mother blamed the girls, the charges say.

TIME TO SPRING AHEAD

3RD-GENERATION WATCHMAKER KNOWS THE POWER OF AN HOUR

By **SONYA SENKOWSKY**

Daily News reporter

Most people lose an hour this weekend. Watchmaker Petr Rykir and his wife, Alena, will lose nearly a hundred.

For them, the annual routine always begins tonight. Before turning in for the evening, Alena Rykir turns forward time - from the loudly tocking kitchen Regulator, to the chiming mantelpiece clock of the dining room, to the silent anniversary clock in their bedroom - adjusting at least the most important of the 35 clocks that fill the couple's household.

First thing Monday morning, she'll do it again - this time at their 36th Avenue shop, the European Watchmaker, where the hour

FISCAL NOTE

No. 4

Bill Version: SB 321

(S) Publish Date: 7/12/96

**STATE OF ALASKA
1996 LEGISLATIVE SESSION**

Revision Date: 04/11/96
Title: Civil Commitments

Dept. Affected: Alaska Court System
BRU: Trial Courts
Component: _____

Sponsor: Senate Judiciary
Requestor: _____

COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	25.6	40.7	55.8	60.8	60.8	60.8
TRAVEL						
CONTRACTUAL	9.8	16.3	22.8	25.0	25.0	25.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	37.4	59.0	80.6	87.8	87.8	87.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	37.4	59.0	80.6	87.8	87.8	87.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	37.4	59.0	80.6	87.8	87.8	87.8

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time	2.0	2.0	2.0	2.0	2.0	2.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *[Signature]*
 Agency: Alaska Court System

Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]*
 Agency: Alaska Court System

Phone: 264-8228
 Date: 04/11/96

Date: 04/11/96

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Alaska Court System
Fiscal Analysis
SB 321

AS 47.30.700 - 47.30.915 allows a person to be civilly committed if the person is mentally ill, and is either a grave danger to self or others, or is gravely disabled. Mental retardation does not constitute mental illness under existing law.

SB 321 would allow a mentally retarded person to be civilly committed under AS 47.30.700 - 47.30.915, if the person is a mentally incompetent defendant under AS 12.47.110(b).

A person facing civil commitment for mental illness receives a series of hearings. First, there is an initial hearing before a judge at which commitment can be ordered for up to 30 days. At the end of thirty days, commitment for up to 90 days can be sought at a jury trial. At the end of ninety days, commitment for up to 180 days can be sought at a jury trial. The person is then entitled to a new jury trial every 180 days as long as they remain committed. As a practical matter, this means that each person subject to SB 321 may have three jury trials during the first year of commitment, and two jury trials per year thereafter. The length of these trials will vary depending on the severity of the underlying offense for which the person was originally declared mentally incompetent to stand trial. For example, if the person was declared incompetent to stand trial for murder, then many issues of fact that would have been raised at a murder trial will be raised at the commitment trials, as the state attempts to prove that there is a substantial risk of harm to others as manifested by recent behavior (the murder). These issues would need to be relitigated before each new jury.

The Department of Health and Human Services has estimated that three persons per year will be subject to the provisions of SB 321, and that after three years the number of committed persons will stabilize at ten, as some persons are released. This note assumes that the trials will average five days in length, and that committed persons will exercise their right to a jury trial two-thirds of the time that a jury trial is allowed; the remainder of the time, the trials will be before a judge sitting without a jury and will average 2 days.

Alaska Court System
Fiscal Analysis
SB 321

	<u>1st Year</u>	<u>2nd Year</u>	<u>3rd Year</u>	<u>4th Year</u>	<u>5th Year</u>	<u>6th Year</u>
<u>Personal Services</u>						
<u>Position</u>	<u>Salary & Benefits</u>	<u>Salary & Benefits</u>	<u>Salary & Benefits</u>	<u>Salary & Benefits</u>	<u>Salary & Benefits</u>	<u>Salary & Benefits</u>
Pro Tem Superior Court Judge, 50% vested, PPT	\$18,100	\$28,700	\$39,400	\$42,900	\$42,900	\$42,900
In-court Clerk, range 12A, PPT	7,500	12,000	16,400	17,900	17,900	17,900
Total Personal Services	25,600	40,700	55,800	60,800	60,800	60,800
<u>Contractual</u>						
Jury fees for 12 jurors and one alternate at \$25/day	9,750	16,250	22,750	25,025	25,025	25,025
<u>Supplies</u>						
Office and courtroom supplies	2,000	2,000	2,000	2,000	2,000	2,000
Total Estimated Cost	<u>\$37,350</u>	<u>\$58,950</u>	<u>\$80,550</u>	<u>\$87,825</u>	<u>\$87,825</u>	<u>\$87,825</u>

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

No. 3
Bill Version: SB 321
(S) Publish Date: 4-11-96

Revision Date: _____ Dept. Affected: Health and Social Services
Title: "An Act relating to civil commitment of a
criminal defendant who is found mentally incompetent" BRU: MH/DD Services
Sponsor: Senate Judiciary Committee Component: Alaska Psychiatric Institute
Requestor: _____ COMPONENT SERIAL NO. 311
See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	577.6	712.5	1,218.5	1,255.1	1,292.7	1,331.5
TRAVEL	4.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	27.4	45.6	91.3	109.5	109.5	109.5
SUPPLIES	16.4	27.4	54.8	65.7	65.7	65.7
EQUIPMENT	50.0	5.0	5.0	5.0	5.0	5.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	675.4	792.5	1,371.6	1,437.3	1,474.9	1,513.7

CAPITAL EXPENDITURES	4,535.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	()					
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health	5,210.4	792.5	1,371.6	1,437.3	1,474.9	1,513.7
Other (please specify)						
TOTAL	5,210.4	792.5	1,371.6	1,437.3	1,474.9	1,513.7

POSITIONS:

FULL-TIME	10	13	21	21	21	21
PART-TIME	2	2	6	6	6	6
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

The changes being proposed would impact the DH&SS Institutions and Administration BRU, Alaska Psychiatric Institute (API) Component. It should be noted at the outset that it is difficult to estimate the number of persons this bill will impact. However, regardless of the number of persons committed under the bill, programmatically SB 321 requires DH&SS to staff a new, sixth unit at API. Why this is so is described in more detail on the next page.

The new unit would serve a criminal defendant population found incompetent to stand trial (IST) because of an expansion of the definition of mental illness to include a previously excluded population: the developmentally disabled (DD), mentally retarded adults. It is estimated that there would be a minimum of three persons a year committed to API under this bill. It is estimated that within three years the unit would be housing up to 10 mentally retarded adults staying up to a year or longer, with shorter stays the exception rather than the rule.

Prepared by: Randall P. Burns Phone: 907-269-7105
Division: Mental Health & Developmental Disabilities Date: 04/10/96

Approved by Commissioner: Karen Perdue Date: 4/11/96
Agency: Department of Health & Social Services

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