

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672
9202 HOUSE JUDICIARY

HB

245



Alaska State Legislature

- Interim (May-Dec.) -
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Eagle River, Alaska 99577
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- Session (Jan.-May) -
Alaska State Capitol
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REPRESENTATIVE FRED DYSON

April 15, 1997

Representative Jeannette James
Chair, House State Affairs Committee
Alaska State Capitol
Juneau, Alaska 99801

Dear Jeannette,

House Bill 245 has been referred to your committee for an initial hearing. Recognizing that the committee is very busy with numerous issues, we request the bill be waived to its next committee of referral, the House Judiciary Committee.

HB 245 does two very important things. First, it establishes minimum sentences for repeat domestic violence offenders. Second, it precludes accused criminals from contacting their alleged victims following arrest. This latter step has been specifically requested by victims groups and police departments throughout Alaska.

Many organizations have expressed approval of this legislation and assured us letters of support are on the way. If you have any questions or concerns we would be happy to answer them.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Dyson".

Fred Dyson

A handwritten signature in black ink, appearing to read "Ethan Berkowitz".

Ethan Berkowitz

cc: Representative Al Vezey
Representative Mark Hodgins
Representative Ivan Ivan
Representative Kim Elton
Representative Joe Green

- E-mail -
Representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>


**HOUSE OF REPRESENTATIVES
COSPONSOR REQUEST**

TO: CHIEF CLERK

Please add my name as ^{PRIME} cosponsor and remove it as co-
to the following: Sponsor

HB 245

*Use one slip for each request.


Member's Signature
4/17/97
Date

Send to Chief Clerk before consideration
of the daily calendar.


**HOUSE OF REPRESENTATIVES
COSPONSOR REQUEST**

TO: CHIEF CLERK

Please add my name as cosponsor and remove it
to the following:

HB 245

*Use one slip for each request.


Member's Signature
4/17/97
Date

Send to Chief Clerk before consideration
of the daily calendar.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

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

MEMORANDUM

May 7, 1997

SUBJECT: CSHB 245(JUD) (Work Order No. 20-LS0450\L)

TO: Representative Joe Green
Attn: Lisa Kirsch

FROM: Gerald P. Luckhaupt *JEP*
Legislative Counsel

Enclosed is the final CS(JUD) you requested. I have two comments concerning the CS(JUD).

1. Amendment 2 adopted by the committee adds a new bill sec. 2, p. 2, lines 1 - 6. This section is a new subsection to AS 12.25.150 that creates a new crime, punishable as a class B misdemeanor, that proscribes the conduct by a prisoner of contacting the alleged victim of the offense the prisoner has been arrested for when the prisoner is allowed access to a telephone under AS 12.25.150. I believe this new crime should be placed in AS 11, where the legislature defines offenses, including offenses that are related to a person's conduct in jail or their conduct vis-a-vis their victim, e.g., in the domestic violence area. AS 12 sets forth the procedures to be utilized when someone is investigated for, charged with, or convicted of a crime and the legislature commonly has not previously located crimes in this title. I recommend that this new offense be added to AS 11.

2. The first amendment adopted by the committee amended AS 12.55.135(c). See bill sec. 3, p. 2. This amendment provides that a person who commits assault in the fourth degree in violation of the provisions of AS 12.30.025 or 12.30.027 is subject to the minimum sentence provided in that section. My concern is that this section would apply even if the person assaulted is not the domestic violence or stalking victim, or family members of the victim or the offender, but the facts of the assault collaterally violate the bail conditions (the offender was drunk, possessed a firearm, was at a certain place or within, etc.).¹ Therefore, I recommend that the following language be inserted on p. 2, line 8, following "degree": ", that is a crime involving domestic violence,". If this is not done, then the title needs to be changed.

GPL:lmb:glc
97-077.lmb
Enclosure

¹After my conversation with Lisa Kirsch, Judiciary Staff Attorney and upon further reflection, I believe that this concern is also applicable to the existing language of AS 12.55.135(c) dealing with domestic violence orders.

CS FOR HOUSE BILL NO. 245(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES DYSON, Berkowitz

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to minimum sentences for assault in the fourth degree that is
2 a crime involving domestic violence; providing that a prisoner may not contact
3 the victim of the offense when provided access to a telephone or otherwise
4 immediately after an arrest; and amending Rule 5(b), Alaska Rules of Criminal
5 Procedure."

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

7 * Section 1. AS 12.25.150(b) is amended to read:

8 (b) Immediately after an arrest, a prisoner shall have the right to telephone or
9 otherwise communicate with the prisoner's attorney and any relative or friend, except
10 that the prisoner may not communicate with the alleged victim of the crime that
11 was the basis of the prisoner's arrest. Any [AND ANY] attorney at law entitled to
12 practice in the courts of Alaska shall, at the request of the prisoner or any relative or
13 friend [FRIENDS] of the prisoner, have the right to immediately visit the person

1 arrested.

2 * Sec. 2. AS 12.25.150 is amended by adding a new subsection to read:

3 (e) A person is guilty of a class B misdemeanor if the person is a prisoner and,
4 in exercising a right granted under (b) of this section, communicates or attempts to
5 communicate with the alleged victim of the crime that was the basis of the prisoner's
6 arrest.

7 * Sec. 3. AS 12.55.135(c) is amended to read:

8 (c) A defendant convicted of assault in the fourth degree committed in violation
9 of the provisions of an order issued or filed under AS 12.30.025, 12.30.027, or
10 AS 18.66.100 - 18.66.180 and not subject to sentencing under (g) of this section
11 [OR ISSUED UNDER FORMER AS 25.35.010 OR 25.35.020] shall be sentenced to
12 a minimum term of imprisonment of 20 days.

13 * Sec. 4. AS 12.55.135 is amended by adding new subsections to read:

14 (g) A defendant convicted of assault in the fourth degree that is a crime
15 involving domestic violence shall be sentenced to a minimum term of imprisonment
16 of

17 (1) 30 days if the defendant has been previously convicted of a crime
18 against a person or a crime involving domestic violence;

19 (2) 60 days if the defendant has been previously convicted two or more
20 times of a crime against a person or a crime involving domestic violence, or a
21 combination of those crimes.

22 (h) If a defendant is sentenced under (g) of this section,

23 (1) execution of sentence may not be suspended and probation or parole
24 may not be granted until the minimum term of imprisonment has been served;

25 (2) imposition of sentence may not be suspended;

26 (3) the minimum term of imprisonment may not otherwise be reduced.

27 (i) In this section,

28 (1) "crime against a person" means a crime under AS 11.41, or a crime
29 in this or another jurisdiction having elements similar to those of a crime under
30 AS 11.41;

31 (2) "crime involving domestic violence" has the meaning given in

1 AS 18.66.990.

2 * Sec. 5. AS 12.55.145(a) is amended to read:

3 (a) For purposes of considering prior convictions in imposing sentence under

4 (1) AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), or (i),

5 (A) a prior conviction may not be considered if a period of 10
6 or more years has elapsed between the date of the defendant's unconditional
7 discharge on the immediately preceding offense and commission of the present
8 offense unless the prior conviction was for an unclassified or class A felony;

9 (B) a conviction in this or another jurisdiction of an offense
10 having elements similar to those of a felony defined as such under Alaska law
11 at the time the offense was committed is considered a prior felony conviction;

12 (C) two or more convictions arising out of a single, continuous
13 criminal episode during which there was no substantial change in the nature of
14 the criminal objective are considered a single conviction unless the defendant
15 was sentenced to consecutive sentences for the crimes; offenses committed
16 while attempting to escape or avoid detection or apprehension after the
17 commission of another offense are not part of the same criminal episode or
18 objective;

19 (2) AS 12.55.125(l),

20 (A) a conviction in this or another jurisdiction of an offense
21 having elements similar to those of a most serious felony is considered a prior
22 most serious felony conviction;

23 (B) commission of and conviction for offenses relied on as prior
24 most serious felony offenses must occur in the following order: conviction for
25 the first offense must occur before commission of the second offense, and
26 conviction for the second offense must occur before commission of the offense
27 for which the defendant is being sentenced;

28 (3) AS 12.55.135(g).

29 (A) a prior conviction may not be considered if a period of
30 five or more years has elapsed between the date of the defendant's
31 unconditional discharge on the immediately preceding offense and

1 commission of the present offense unless the prior conviction was for an
 2 unclassified or class A felony:

3 (B) a conviction in this or another jurisdiction of an offense
 4 having elements similar to those of a crime against a person or a crime
 5 involving domestic violence is considered a prior conviction:

6 (C) two or more convictions arising out of a single,
 7 continuous criminal episode during which there was no substantial change
 8 in the nature of the criminal objective are considered a single conviction
 9 unless the defendant was sentenced to consecutive sentences for the crimes:
 10 offenses committed while attempting to escape or avoid detection or
 11 apprehension after the commission of another offense are not part of the
 12 same criminal episode or objective.

13 * Sec. 6. AS 12.55.145(c) is amended to read:.

14 (c) The defendant shall file with the court and serve on the prosecuting
 15 attorney notice of denial, consisting of a concise statement of the grounds relied upon
 16 and that may be supported by affidavit or other documentary evidence, no later than
 17 10 days before the date set for the imposition of sentence if the defendant

18 (1) denies

19 (A) the authenticity of a prior judgment of conviction;

20 (B) that the defendant is the person named in the judgment;

21 (C) that the elements of a prior offense committed in this or
 22 another jurisdiction are similar to those of a

23 (i) felony defined as such under Alaska law;

24 (ii) most serious felony, defined as such under Alaska

25 law;

26 (iii) crime against a person or a crime involving
 27 domestic violence;

28 (D) that a prior conviction occurred within the period specified
 29 in (a)(1)(A) or (3)(A) of this section; or

30 (E) that a previous conviction occurred in the order required
 31 under (a)(2)(B) of this section; or

1 (2) alleges that two or more purportedly separate prior convictions
2 should be considered a single conviction under (a)(1)(C) or (3)(C) of this section.

3 * Sec. 7. AS 12.55.145(d) is amended to read:

4 (d) Matters alleged in a notice of denial shall be heard by the court sitting
5 without a jury. If the defendant introduces substantial evidence that the defendant is
6 not the person named in a prior judgment of conviction, that the judgment is not
7 authentic, that the conviction did not occur within the period specified in (a)(1)(A) or
8 (3)(A) of this section, that a conviction should not be considered a prior felony
9 conviction under (a)(1)(B) of this section, [OR] a prior most serious felony conviction
10 under (a)(2)(A) of this section, or a prior crime against a person or a crime
11 involving domestic violence conviction under (a)(3)(B) of this section. or that a
12 previous conviction did not occur in the order required under (a)(2)(B) of this section,
13 then the burden is on the state to prove the contrary beyond a reasonable doubt. The
14 burden of proof that two or more convictions should be considered a single conviction
15 under (a)(1)(C) or (3)(C) of this section is on the defendant by clear and convincing
16 evidence.

17 * Sec. 8. AS 12.55.145 is amended by adding a new subsection to read:

18 (g) In this section,

19 (1) "crime against a person" has the meaning given in AS 12.55.135(i);

20 (2) "crime involving domestic violence" has the meaning given in

21 AS 18.66.990.

22 * Sec. 9. Rule 5(b), Alaska Rules of Criminal Procedure, is amended to read:

23 (b) **Rights of Prisoner to Communicate With Attorney or Other Person.**

24 Immediately after arrest, the prisoner shall have the right forthwith to telephone c
25 otherwise to communicate with both an attorney and any relative or friend, except that
26 the prisoner may not communicate with the alleged victim of the crime that was
27 the basis of the prisoner's arrest. Any attorney at law entitled to practice in the
28 courts of Alaska, at the request of either the prisoner or any relative or friend of the
29 prisoner, shall have the right forthwith to visit the prisoner in private.

30 * Sec. 10. AS 12.55.150(b), as amended by sec. 1 of this Act, amends Rule 5(b), Alaska
31 Rules of Criminal Procedure, by limiting the people with whom a prisoner may communicate

1 immediately after arrest.

2 * Sec. 11. AS 12.55.150(b), as amended by sec. 1 of this Act, and sec. 9 of this Act take
3 effect only if secs. 9 and 10 of this Act receive the two-thirds majority vote of each house
4 required by art. IV, sec. 15, Constitution of the State of Alaska.

5 * Sec. 12. References to previous convictions in this Act apply to all convictions occurring
6 before, on, or after the effective date of this Act.

0-LS0450AK
Luckhaupt
4/28/97

CS FOR HOUSE BILL NO. 245()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsors: REPRESENTATIVES DYSON, Berkowitz

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to minimum sentences for assault in the fourth degree that is
2 a crime involving domestic violence; providing that a prisoner may not contact
3 the victim of the offense when provided access to a telephone or otherwise
4 immediately after an arrest; and amending Rule 5(b), Alaska Rules of Criminal
5 Procedure."

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

7 * Section 1. AS 12.25.150(b) is amended to read:

8 (b) Immediately after an arrest, a prisoner shall have the right to telephone or
9 otherwise communicate with the prisoner's attorney and any relative or friend, except
10 that the prisoner may not communicate with the alleged victim of the crime that
11 was the basis of the prisoner's arrest. Any [AND ANY] attorney at law entitled to
12 practice in the courts of Alaska shall, at the request of the prisoner or any relative or
13 friend [FRIENDS] of the prisoner, have the right to immediately visit the person

1 arrested.

2 * Sec. 2. AS 12.55.135(c) is amended to read:

3 (c) A defendant convicted of assault in the fourth degree committed in violation
4 of the provisions of an order issued or filed under AS 18.66.100 - 18.66.180 and not
5 subject to sentencing under (g) of this section [OR ISSUED UNDER FORMER
6 AS 25.35.010 OR 25.35.020] shall be sentenced to a minimum term of imprisonment
7 of 20 days.

8 * Sec. 3. AS 12.55.135 is amended by adding new subsections to read:

9 (g) A defendant convicted of assault in the fourth degree that is a crime
10 involving domestic violence shall be sentenced to a minimum term of imprisonment
11 of

12 (1) 30 days if the defendant has been previously convicted of a crime
13 against a person or a crime involving domestic violence;

14 (2) 60 days if the defendant has been previously convicted two or more
15 times of a crime against a person or a crime involving domestic violence, or a
16 combination of those crimes.

17 (h) If a defendant is sentenced under (g) of this section,

18 (1) execution of sentence may not be suspended and probation or parole
19 may not be granted until the minimum term of imprisonment has been served;

20 (2) imposition of sentence may not be suspended;

21 (3) the minimum term of imprisonment may not otherwise be reduced.

22 (i) In this section,

23 (1) "crime against a person" means a crime under AS 11.41, or a crime
24 in this or another jurisdiction having elements similar to those of a crime under
25 AS 11.41;

26 (2) "crime involving domestic violence" has the meaning given in
27 AS 18.66.990.

28 * Sec. 4. AS 12.55.145(a) is amended to read:

29 (a) For purposes of considering prior convictions in imposing sentence under

30 (1) AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), or (i),

31 (A) a prior conviction may not be considered if a period of 10

1 or more years has elapsed between the date of the defendant's unconditional
2 discharge on the immediately preceding offense and commission of the present
3 offense unless the prior conviction was for an unclassified or class A felony;

4 (B) a conviction in this or another jurisdiction of an offense
5 having elements similar to those of a felony defined as such under Alaska law
6 at the time the offense was committed is considered a prior felony conviction;

7 (C) two or more convictions arising out of a single, continuous
8 criminal episode during which there was no substantial change in the nature of
9 the criminal objective are considered a single conviction unless the defendant
10 was sentenced to consecutive sentences for the crimes; offenses committed
11 while attempting to escape or avoid detection or apprehension after the
12 commission of another offense are not part of the same criminal episode or
13 objective;

14 (2) AS 12.55.125(l),

15 (A) a conviction in this or another jurisdiction of an offense
16 having elements similar to those of a most serious felony is considered a prior
17 most serious felony conviction;

18 (B) commission of and conviction for offenses relied on as prior
19 most serious felony offenses must occur in the following order: conviction for
20 the first offense must occur before commission of the second offense, and
21 conviction for the second offense must occur before commission of the offense
22 for which the defendant is being sentenced;

23 (3) AS 12.55.135(g),

24 (A) a prior conviction may not be considered if a period of
25 10 or more years has elapsed between the date of the defendant's
26 unconditional discharge on the immediately preceding offense and
27 commission of the present offense unless the prior conviction was for an
28 unclassified or class A felony;

29 (B) a conviction in this or another jurisdiction of an offense
30 having elements similar to those of a crime against a person or a crime
31 involving domestic violence is considered a prior conviction;

1 (C) two or more convictions arising out of a single,
2 continuous criminal episode during which there was no substantial change
3 in the nature of the criminal objective are considered a single conviction
4 unless the defendant was sentenced to consecutive sentences for the crimes;
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6 apprehension after the commission of another offense are not part of the
7 same criminal episode or objective.

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9 (c) The defendant shall file with the court and serve on the prosecuting
10 attorney notice of denial, consisting of a concise statement of the grounds relied upon
11 and that may be supported by affidavit or other documentary evidence, no later than
12 10 days before the date set for the imposition of sentence if the defendant

13 (1) denies

14 (A) the authenticity of a prior judgment of conviction;

15 (B) that the defendant is the person named in the judgment;

16 (C) that the elements of a prior offense committed in this or
17 another jurisdiction are similar to those of a

18 (i) felony defined as such under Alaska law;

19 (ii) most serious felony, defined as such under Alaska
20 law;

21 (iii) crime against a person or a crime involving
22 domestic violence;

23 (D) that a prior conviction occurred within the period specified
24 in (a)(1)(A) or (3)(A) of this section; or

25 (E) that a previous conviction occurred in the order required
26 under (a)(2)(B) of this section; or

27 (2) alleges that two or more purportedly separate prior convictions
28 should be considered a single conviction under (a)(1)(C) or (3)(C) of this section.

29 * Sec. 6. AS 12.55.145(d) is amended to read:

30 (d) Matters alleged in a notice of denial shall be heard by the court sitting
31 without a jury. If the defendant introduces substantial evidence that the defendant is

1 not the person named in a prior judgment of conviction, that the judgment is not
2 authentic. that the conviction did not occur within the period specified in (a)(1)(A) or
3 (3)(A) of this section, that a conviction should not be considered a prior felony
4 conviction under (a)(1)(B) of this section, [OR] a prior most serious felony conviction
5 under (a)(2)(A) of this section, or a prior crime against a person or a crime
6 involving domestic violence conviction under (a)(3)(B) of this section, or that a
7 previous conviction did not occur in the order required under (a)(2)(B) of this section,
8 then the burden is on the state to prove the contrary beyond a reasonable doubt. The
9 burden of proof that two or more convictions should be considered a single conviction
10 under (a)(1)(C) or (3)(C) of this section is on the defendant by clear and convincing
11 evidence.

12 * Sec. 7. AS 12.55.145 is amended by adding a new subsection to read:

13 (g) In this section,

14 (1) "crime against a person" has the meaning given in AS 12.55.135(i);

15 (2) "crime involving domestic violence" has the meaning given in

16 AS 18.66.990.

17 * Sec. 8. Rule 5(b), Alaska Rules of Criminal Procedure, is amended to read:

18 (b) **Rights of Prisoner to Communicate With Attorney or Other Person.**

19 Immediately after arrest, the prisoner shall have the right forthwith to telephone or
20 otherwise to communicate with both an attorney and any relative or friend, except that
21 the prisoner may not communicate with the alleged victim of the crime that was
22 the basis of the prisoner's arrest. Any attorney at law entitled to practice in the
23 courts of Alaska, at the request of either the prisoner or any relative or friend of the
24 prisoner, shall have the right forthwith to visit the prisoner in private.

25 * Sec. 9. AS 12.55.150(b), as amended by sec. 1 of this Act, amends Rule 5(b), Alaska
26 Rules of Criminal Procedure, by limiting the people with whom a prisoner may communicate
27 immediately after arrest.

28 * Sec. 10. AS 12.55.150(b), as amended by sec. 1 of this Act, and sec. 8 of this Act take
29 effect only if secs. 8 and 9 of this Act receive the two-thirds majority vote of each house
30 required by art. IV, sec. 15, Constitution of the State of Alaska.

31 * Sec. 11. References to previous convictions in this Act apply to all convictions occurring

1 before, on, or after the effective date of this Act.

HOUSE COMMITTEE REPORT

5/7/97

Finance

(7)
Date Referred to Committee: April 25, 1997

FURTHER REFERRALS:

Date of Committee Action: 5/6/97

The JUDICIARY Committee considered:

HB 245

HOUSE BILL NO. 245

DOM. VIOL. ASSAULTS; PRISONER CONTACTS

"An Act relating to minimum sentences for assault in the fourth degree that is a crime involving domestic violence; providing that a prisoner may not contact the victim of the offense when provided access to a telephone or otherwise immediately after an arrest; and amending Rule 5(b), Alaska Rules of Criminal Procedure."

recommends it be replaced with the following committee substitute CS HB 245 (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) _____

[2] fiscal note(s) INDETERMINATE
ADMIN(PD) & CORRECTIONS
4.25.97

zero fiscal note(s) _____

[2] zero fiscal note(s) LAW & DPS
4.25.97

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Nancy Rokeberg</i> ROKEBERG			✓	
<i>Uma Nova</i> CROFT	✓			
<i>Brian Porter</i> PORTER	✓			
<i>Wendy Green</i> GREEN	✓			
<i>James James</i> JAMES	✓			
<i>Walter Bunde</i> BUNDE	✓			
<i>Cheryl Berkowitz</i> BERKOWITZ	✓			
	(6)		(1)	

CHAIR'S SIGNATURE _____

ATTN: JERRY LUCKHAUPT

05/02/97

K-1

AMENDMENT (b: 1)

OFFERED IN THE HOUSE

BY: Representative Berkowitz

TO: House Bill 245 work draft 0-LS0450K

Page 2, line 4;

Following "18.66.180",

insert "or AS 12.30.025 - 12.30.027"

05/02/97

K-2

AMENDMENT #2

OFFERED IN THE HOUSE

BY: Representative Berkowitz

TO: House Bill 245 work draft 0-LS0450\K

Page 2, line 1;

Following line 1 insert,

"Sec. 2. AS 12.25.150 is amended by adding a new subsection to read:

(e) A person is guilty of a class B misdemeanor if the person is a prisoner who, in exercising a right granted under (b) of this section, communicates or attempts to communicate with the alleged victim of the crime that was the basis of the prisoner's arrest."

renumber following sections accordingly

05/02/97

K-3

AMENDMENT

OFFERED IN THE HOUSE

BY: Representative Berkowitz

TO: House Bill 245 work draft 0-LS0450\K

Page 3, line 25;

Preceding "or",

delete "10", insert "5"

Proposed amendment to HB 245

Add a new section in the bill:

* Sec. 2. AS 12.25.150(c) is repealed and reenacted to read:

(c) A person is guilty of a class B misdemeanor if the person is

(1) a peace officer or correctional officer having custody of a prisoner immediately after arrest, and the officer refuses to grant the prisoner the rights provided in this section; or

(2) a prisoner who, in exercising a right granted under (b) of this section, communicates or attempts to communicate with the alleged victim of the crime that was the basis of the prisoner's arrest.



Alaska State Legislature

Winter (May-Dec)
1952+ Eagle River Rd. Suite 140
Eagle River Alaska 99577
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Session (Jan-May)
Alaska State Capitol
Juneau Alaska 99801-1142
☎ (907) 465-2199
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Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

HB 245

Sponsor Statement

Minimum Sentences For Domestic Violence And Phone Call Restrictions For Prisoners

"An Act relating to minimum sentences for assault in the fourth degree that is a crime involving domestic violence; providing that a prisoner may not contact the victim of the offense when provided access to a telephone or otherwise immediately after an arrest; and amending Rule 5(b), Alaska Rules of Criminal Procedure."

HB 245 takes two important steps against Domestic Violence (DV).

First, it establishes graduated minimum sentences for domestic violence offenders. Just as the law recognizes the need to ratchet up penalties for drunk drivers, mandatory minimum sentences for repeat DV offenders delivers the message that Alaska does not tolerate the cycle of violence.

Second, HB 245 prevents defendants from using their "one phone call" to contact victims following arrest. Victims groups and police departments throughout Alaska recognize this as another important step in the fight for victims' rights.

Many organizations have expressed approval of this legislation and appreciate your assistance in giving police and prosecutors needed tools to arrest Domestic Violence.

- E-mail -
Representative_Fred_Dyson
@Legis.State.ak.us

- Internet -
<http://www.aknpublicans.org>

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

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

MEMORANDUM

April 12, 1997

SUBJECT: Sectional Summary - HB 245 (W.O.20LS0450\F)

TO: Representative Ethan Berkowitz
Attn: Patrick Flynn

FROM: Gerald P. Luckhaupt *GLP*
Legislative Counsel

You have asked for a sectional summary of the above-referenced bill. A sectional summary is not an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill limits an arrestee's right to use the telephone after arrest; provides that an arrestee may not call or otherwise contact the alleged victim.

Section 2 of the bill provides that this section only applies for sentencing purposes if AS 12.55.135(g) does not apply.

Section 3 of the bill establishes minimum sentences for persons engaging in domestic violence by violating AS 11.41.230, assault in the fourth degree.

Section 4 of the bill amends Rule 5(b), Alaska Rules of Criminal Procedure, to provide a change that corresponds to the change made in sec. 1 of the bill.

Section 5 of the bill provides a notice section to announce that sec. 1 of the bill effects a court rule change.

Section 6 of the bill provides that secs. 1 and 4 only take effect if those sections receive the two-thirds vote required under the Constitution for court rule changes.

Section 7 of the bill provides an applicability section.

GPL:lmb
97-051.lmb

1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety
 Title: Domestic Violence Assaults; Prisoner Contacts DPS Statewide Support
 Component: Council on Domestic Violence and Sexual Assault
 Sponsor: Representative Berkowitz *Difson*
 Requestor: H. State Affairs COMPONENT SERIAL NO. 0521

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 97) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Jayne Andreen, Executive Director Phone: 465-4356
 Division: Council on Domestic Violence and Sexual Assault Date: 4/22/97
 Approved by Commissioner: *Ronald L. Olte* Date: _____
 Agency: Ronald L. Olte, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 245

Revision Date: _____ Dept. Affected: Department of Law
 Title: * relating to minimum sentences for assault BRU: Criminal Division
in the fourth degree that is a crime involving domestic violence . . . Component: Criminal Division
 Sponsor: Representative Dyson
 Requester: House State Affairs Committee COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB 245 imposes minimum sentences for assault in the fourth degree that are crimes involving domestic violence if the defendant has a previous conviction(s). The minimum sentences may not be reduced or suspended. HB 245 further prohibits a prisoner from communicating with the alleged victim of the crime that was the basis of the arrest.

The mandatory minimum sentences required by this bill do not appear to be a significant departure from the average sentences that are being imposed under current procedures for crimes involving domestic violence. The bill would serve to equalize these sentencing practices across the state. Because of this, the Department of Law does not anticipate an increase in the number of cases that would go to trial if this bill passes, and so does not anticipate any fiscal impact. If the caseload does increase, contrary to our expectations, we would return to the legislature next year for relief.

Prepared by: Joan M. Kasson
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-5370
 Date: 4/22/97
 Date: 4/22/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 245

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act relating to minimum sentences for assault
in the fourth degree that is a crime involving domestic violence..." BRU: All
 Sponsor: Representative Dyson Component: All
 Requester: House State Affairs Committee COMPONENT SERIAL NO. #0694

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Section 3 of this legislation provides for new mandatory minimum sentences for persons convicted of assault in the fourth degree involving domestic violence who have previously been convicted of a crime against a person under AS 11.41.

The Department of Corrections is providing an indeterminate fiscal note since we are unable to provide an accurate estimate from existing data. Data provided from the Department of Law indicates there were 1279 convictions for assault in the fourth degree that involved domestic violence in 1996. This figure does not include municipal cases. The Municipality of Anchorage provided a figure of 1500 cases for 1996 with approximately thirty percent of those having previous convictions of crimes against a person.

To illustrate the impact of incarceration for only 1 day for the 30% with previous convictions:
 834 inmates X 105.25 average daily cost = \$87,778.50

The Department of Corrections believes that Judges are taking into account previous convictions for sentencing. However, it is not clear if they are equal to what is proposed in HB 245. If there is a significant impact resulting from passage of this legislation the Department of Corrections will make a corresponding request for an increase in the next fiscal years budget.

Prepared by: Bruce Richards Phone: 465-3307
 Division: Commissioner's Office Margaret M. Pugh Date: 4/23/97
 Approved by: Commissioner Margaret M. Pugh Date: 4/23/97
 Agency: Department of Corrections

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 245

Revision Date: _____

Department Affected: Administration

Title: "An Act relating to minimum sentences for assault in the fourth degree that is a crime involving domestic violence..."

BRU: Public Defender Agency

Component: Public Defender Agency

Sponsor: Representative Dyson

Requestor: (H) JUD

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 97) cost: \$ -0-

POSITIONS:

FULL-TIME	***	***	***	***	***	***
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

Prepared by: Barbara K. Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Barbara K. Brink
Date: 4/23/97

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Page 1 of 2

ANALYSIS: (continued)

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 245

This bill creates mandatory minimum jail sentences for a person convicted of misdemeanor assault when it is "a crime involving domestic violence" and the person has a previous conviction for any crime against a person (30 days if one prior; 60 days if 2 or more).

Mandatory minimum sentences remove the judges' ability to fashion an appropriate punishment given the seriousness of the harm, the rehabilitation potential of the defendant, the deterrent value and reaffirmation of societal norms. Such mandatory minimums create anomalies in the overall criminal sentencing scheme. Under this bill a person may be required to serve more jail time than if they had committed a serious felony crime.

Such sentences discourage people from admitting their conduct due to the harsh and somewhat arbitrary consequences. Fewer people will admit their guilt, and more cases will proceed to (costly) jury trials. Last year, according to Department of Law figures, the state prosecuted 1279 domestic assaults. The Municipality of Anchorage alone prosecuted an additional 1500. The estimates are that a good 30% - 50% of those cases involve repeat offenders, such that an even greater percentage of those would have a prior of any crime against a person. If even a small percentage of those cases which routinely settle go to trial, the financial burden placed upon the Public Defender is enormous. Without the ability to predict those trial numbers, quantification is impossible although impact is certain. This will be in our FY 98 supplemental request.

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

*House Judiciary Standing Committee,
4/29/97, 1:05 p.m.*

HB

252

Date Referred to Committee: April 16, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/16/98

The JUDICIARY Committee considered:

HB 252

HOUSE BILL NO. 252

REGISTRATION OF SEX & CHILD OFFENDERS

"An Act relating to criminal records; relating to notice about and registration of sex offenders and child kidnapers; and amending Rules 11(c) and 32(c), Alaska Rules of Criminal Procedure."

recommends it be replaced with the following committee substitute CS HB 252 (JUR) 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) Public Safety / Admins / fiscal note(s) _____
Law / Corrections

zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John Kotely</i>			<input checked="" type="checkbox"/>	
<i>David H. Hart</i>	<input checked="" type="checkbox"/>			
<i>Joseph P. ...</i>			<input checked="" type="checkbox"/>	
<i>Connie James</i>			<input checked="" type="checkbox"/>	
<i>John ...</i>	<input checked="" type="checkbox"/>			
<i>Chris ...</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE

[Handwritten Signature]

CS FOR HOUSE BILL NO. 252(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE RYAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal records; relating to notice about and registration of
2 sex offenders and child kidnappers; and amending Rules 11(c) and 32(c), Alaska
3 Rules of Criminal Procedure."

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

5 * Section 1. AS 11.56 is amended by adding a new section to read:

6 Sec. 11.56.835. Failure to register as a sex offender or child kidnapper in
7 the first degree. (a) A person commits the crime of failure to register as a sex
8 offender or child kidnapper in the first degree if the person violates AS 11.56.840

9 (1) and the person has been previously convicted of a crime under this
10 section or AS 11.56.840 or a law or ordinance of this or another jurisdiction with
11 elements similar to a crime under this section or AS 11.56.840; or

12 (2) with intent to escape detection or identification and, by escaping
13 detection or identification, to facilitate the person's commission of a sex offense or
14 child kidnapping.

1 (b) In a prosecution under (a)(2) of this section, the fact that the defendant, for
 2 a period of at least one year, failed to register as a sex offender or child kidnapper,
 3 failed to file the annual or quarterly written verification or changed the sex offender's
 4 or child kidnapper's address and did not file the required notice of change of address,
 5 is prima facie evidence that the defendant intended to escape detection or identification
 6 and, by escaping detection or identification, to facilitate the person's commission of a
 7 sex offense or child kidnapping.

8 (c) In this section, "child kidnapping" and "sex offense" have the meanings
 9 given in AS 12.63.100.

10 (d) Failure to register as a sex offender or child kidnapper in the first degree
 11 is a class C felony.

12 * Sec. 2. AS 11.56.840 is amended to read:

13 **Sec. 11.56.840. Failure to register as a sex offender or child kidnapper in**
 14 **the second degree. (a) A person commits the crime of failure to register as a sex**
 15 **offender or child kidnapper in the second degree if the person [WHO] knowingly**
 16 **fails to (1) register, (2) file the written notice of change of address, [OR] (3) file the**
 17 **annual or quarterly written verification, or (4) supply all of the information**
 18 **required to be submitted under (1) - (3) of this subsection [NOTICE OR**
 19 **STATEMENT], as required in AS 12.63.010.**

20 **(b) Failure to register as a sex offender or child kidnapper in the second**
 21 **degree is [, IS GUILTY OF] a class A misdemeanor.**

22 * Sec. 3. AS 12.55.135(e) is amended to read:

23 (e) If a defendant is sentenced under (c), [OR] (d), or (g) of this section,
 24 (1) execution of sentence may not be suspended and probation or parole
 25 may not be granted until the minimum term of imprisonment has been served;
 26 (2) imposition of a sentence may not be suspended except upon
 27 condition that the defendant be imprisoned for no less than the minimum term of
 28 imprisonment provided in the section; and
 29 (3) the minimum term of imprisonment may not otherwise be reduced.

30 * Sec. 4. AS 12.55.135 is amended by adding a new subsection to read:

31 (g) A defendant convicted of failure to register as a sex offender or child

1 kidnapper in the second degree under AS 11.56.840 shall be sentenced to a minimum
2 term of imprisonment of 90 days.

3 * Sec. 5. AS 12.55.148 is amended to read:

4 **Sec. 12.55.148. Judgment for sex offenses or child kidnappings.** (a) When
5 a defendant is convicted of a sex offense or child kidnapping by a court of this state,
6 the written judgment must set out the requirements of AS 12.63.010 and, if it can be
7 determined by the court, whether that conviction will require the offender or
8 kidnapper to register for life or a lesser period under AS 12.63.

9 (b) In this section, "sex offense" and "child kidnapping" have [HAS] the
10 meanings [MEANING] given in AS 12.63.100.

11 * Sec. 6. AS 12.62.900(23) is amended to read:

12 (23) "serious offense" means a conviction for a violation or for an
13 attempt, solicitation, or conspiracy to commit a violation [FOR A FELONY
14 OFFENSE, A CRIME INVOLVING DOMESTIC VIOLENCE, OR A VIOLATION
15 OR ATTEMPTED VIOLATION] of any of the following laws, or of the laws of
16 another jurisdiction with substantially similar elements:

17 (A) a felony offense;

18 (B) a crime involving domestic violence;

19 (C) AS 11.41.410 - 11.41.470;

20 (D) [(B)] AS 11.51.130 [AS 11.51.130(a)(1) - (3)];

21 (E) [(C)] AS 11.61.110(a)(7) or 11.61.125;

22 (F) [(D)] AS 11.66.100 - 11.66.130; or

23 (G) former AS 11.15.120, former 11.15.134, or assault with
24 the intent to commit rape under former AS 11.15.160;

25 (H) [(E)] former AS 11.40.080, 11.40.110, 11.40.130, or
26 11.40.200 - 11.40.420, if committed before January 1, 1980;

27 * Sec. 7. AS 12.63.010(a) is amended to read:

28 (a) A sex offender or child kidnapper who is physically present in the state
29 shall register as provided in this section. The sex offender or child kidnapper shall
30 register [WITHIN]

31 (1) within the 30-day period before [SEVEN DAYS OF] release from

1 an in-state correctional facility;

2 (2) by the next working day following [SEVEN DAYS OF]
3 conviction for a sex offense or child kidnapping if the sex offender is not
4 incarcerated at the time of conviction [SENTENCED TO A TERM OF
5 INCARCERATION]; or

6 (3) by the next working day [14 DAYS] of becoming physically
7 present in the state [, EXCEPT THE SEX OFFENDER SHALL REGISTER WITHIN
8 SEVEN DAYS OF BECOMING PHYSICALLY PRESENT IN THE STATE IF THE
9 SEX OFFENDER

10 (A) IS A PROBATIONER OR PAROLEE BEING
11 SUPERVISED BY THE STATE AS THE RECEIVING STATE UNDER
12 AS 33.36.110 - 33.36.120; OR

13 (B) HAS BEEN RELEASED FROM AN OUT-OF-STATE
14 CORRECTIONAL FACILITY WHERE THE SEX OFFENDER WAS
15 SERVING A TERM OF INCARCERATION FOR A SEX OFFENSE
16 CONVICTION IN THIS STATE].

17 * Sec. 8. AS 12.63.010(b) is amended to read:

18 (b) A sex offender or child kidnapper required to register under (a) of this
19 section shall register with the Department of Corrections if the sex offender or
20 child kidnapper is incarcerated or in person at the Alaska state trooper post or
21 municipal police department located nearest to where the sex offender or child
22 kidnapper resides at the time of registration. To fulfill the registration requirement,
23 the sex offender or child kidnapper shall

24 (1) complete a registration form that includes, at a minimum,

25 (A) the sex offender's or child kidnapper's name, address,
26 place of employment, date of birth; [.]

27 (B) each conviction for a sex offense or child kidnapping for
28 which the duty to register has not terminated under AS 12.63.020, date of sex
29 offense or child kidnapping convictions, place and court of sex offense or
30 child kidnapping convictions, whether the sex offender or child kidnapper
31 has been unconditionally discharged from the conviction for a sex offense

1 or child kidnapping and the date of the unconditional discharge; if the sex
 2 offender or child kidnapper asserts that the offender or kidnapper has
 3 been unconditionally discharged, the offender or kidnapper shall supply
 4 proof of that discharge acceptable to the department;

5 (C) all aliases used; [,]

6 (D) [AND] driver's license number;

7 (E) description, license numbers, and vehicle identification
 8 numbers of motor vehicles the sex offender or child kidnapper has access
 9 to regardless of whether that access is regular or not;

10 (F) any identifying features of the sex offender or child
 11 kidnapper;

12 (G) anticipated changes of address; and

13 (H) a statement concerning whether the offender or
 14 kidnapper has had treatment for a mental abnormality or personality
 15 disorder since the date of conviction for an offense requiring registration
 16 under this chapter;

17 (2) allow the Alaska state troopers, Department of Corrections, or
 18 municipal police to take a complete set of the sex offender's or child kidnapper's
 19 finger prints and to take the sex offender's or child kidnapper's photograph.

20 * Sec. 9. AS 12.63.010(c) is amended to read:

21 (c) If a sex offender or child kidnapper changes residence [WITHIN THE
 22 STATE] after having registered under (a) of this section, the sex offender or child
 23 kidnapper shall provide written notice of the change by the next working day
 24 following the change to the Alaska state trooper post or municipal police department
 25 located nearest to the new residence or, if the residence change is out of state, to the
 26 central registry [WITHIN 10 DAYS OF THE CHANGE].

27 * Sec. 10. AS 12.63.010(d) is amended to read:

28 (d) A sex offender or child kidnapper required to register
 29 (1) for 15 years under (a) of this section and AS 12.63.020(a)(2) shall,
 30 annually, during the term of a duty to register under AS 12.63.020, on a date set by
 31 the department at the time of the sex offender's or child kidnapper's initial

1 registration, provide written verification [NOTICE] to the department, in the manner
 2 required by the department, of the sex offender's or child kidnapper's address
 3 and notice of any changes to the information previously [INITIALLY] provided under
 4 (b)(1) of this section;

5 (2) for life under (a) of this section and AS 12.63.020(a)(1) shall, not
 6 less than quarterly, on a date set by the department, provide written verification
 7 to the department, in the manner required by the department, of the sex
 8 offender's or child kidnapper's address and any changes to the information
 9 previously provided under (b)(1) of this section [, OR IF THERE ARE NO
 10 CHANGES, A STATEMENT TO THAT EFFECT].

11 * Sec. 11. AS 12.63.010 is amended by adding a new subsection to read:

12 (f) The registration form required to be submitted under (b) of this section and
 13 the annual or quarterly verifications must be sworn to by the offender or kidnapper and
 14 contain an admonition that a false statement shall subject the offender or kidnapper to
 15 prosecution for perjury.

16 * Sec. 12. AS 12.63.020 is amended to read:

17 Sec. 12.63.020. Duration of sex offender or child kidnapper duty to
 18 register. (a) The duty of a sex offender or child kidnapper to comply with the
 19 requirements of AS 12.63.010 for each sex offense or child kidnapping

20 (1) continues for the lifetime of a sex offender or child kidnapper
 21 convicted of

22 (A) one aggravated sex offense; or

23 (B) two or more sex offenses, two or more child kidnappings,
 24 or one sex offense and one child kidnapping;

25 (2) ends 15 years following the sex offender's or child kidnapper's
 26 unconditional discharge from a conviction for a single sex offense that is not an
 27 aggravated sex offense or for a single child kidnapping if the sex offender or child
 28 kidnapper has supplied proof that is acceptable to the department of the
 29 unconditional discharge; the registration period under this paragraph

30 (A) is tolled for each year that a sex offender or child
 31 kidnapper

1 (i) fails to comply with the requirements of this
 2 chapter;

3 (ii) is incarcerated for the offense or kidnapping for
 4 which the offender or kidnapper is required to register or for any
 5 other offense;

6 (B) may include the time a sex offender or child kidnapper
 7 was absent from this state if the sex offender or child kidnapper has
 8 complied with any sex offender or child kidnapper registration
 9 requirements of the jurisdiction in which the offender or kidnapper was
 10 located and if the sex offender or child kidnapper provides the department
 11 with proof of the compliance while the sex offender or child kidnapper was
 12 absent from this state; and

13 (C) continues for a sex offender or child kidnapper who has
 14 not supplied proof acceptable to the department of the offender's or
 15 kidnapper's unconditional discharge for the sex offense or child
 16 kidnapping requiring registration.

17 (b) The department shall adopt, by regulation, procedures to notify a sex
 18 offender or child kidnapper who, on the registration form under AS 12.63.010, lists
 19 a conviction for a sex offense or child kidnapping that is a violation of a former law
 20 of this state or a law of another jurisdiction, of the duration of the offender's or
 21 kidnapper's duty under (a) of this section for that sex offense or child kidnapping.
 22 As a part of the regulations, the department shall require the offender or
 23 kidnapper to supply proof acceptable to the department of unconditional
 24 discharge and the date it occurred.

25 * Sec. 13. AS 12.63 is amended by adding a new section to read:

26 **Sec. 12.63.030. Notification of other jurisdictions.** (a) If a sex offender or
 27 child kidnapper notifies the department that the sex offender or child kidnapper is
 28 moving from the state, the department shall notify the Federal Bureau of Investigation
 29 and the state where the sex offender or child kidnapper is moving of the sex offender's
 30 or child kidnapper's intended address.

31 (b) If a sex offender or child kidnapper fails to register or to verify the sex

1 offender's or child kidnapper's address and registration under this chapter, or the
 2 department does not know the location of a sex offender or child kidnapper required
 3 to register under this chapter, the department shall immediately notify the Federal
 4 Bureau of Investigation.

5 * Sec. 14. AS 12.63.100(2) is amended to read:

6 (2) "sex offender or child kidnapper" means a person convicted of a
 7 sex offense or child kidnapping in this state or another jurisdiction regardless of
 8 whether the conviction occurred before, after, or on the effective date of this Act
 9 [AUGUST 10, 1994];

10 * Sec. 15. AS 12.63.100(3) is amended to read:

11 (3) "sex offense" means a crime, or an attempt, solicitation, or
 12 conspiracy to commit a crime, under the following statutes or a similar law of
 13 another jurisdiction:

14 (A) AS 11.41.410 - 11.41.438, 11.41.440(a)(2), 11.41.450, or
 15 11.41.455;

16 (B) [,] AS 11.61.125;

17 (C) [,] AS 11.66.110 or 11.66.130(a)(2) if the person who was
 18 induced or caused to engage in prostitution was 16 or 17 years of age at
 19 the time of the offense; or

20 (D) [,] former AS 11.15.120, former [OR] 11.15.134, or
 21 assault with the intent to commit rape under former AS 11.15.160, [OR]
 22 former AS 11.40.110, or 11.40.200 [, OR A SIMILAR LAW IN ANOTHER
 23 JURISDICTION];

24 * Sec. 16. AS 12.63.100 is amended by adding new paragraphs to read:

25 (5) "aggravated sex offense" means a crime, or an attempt, solicitation,
 26 or conspiracy to commit a crime, under AS 11.41.410, 11.41.434, or a similar law of
 27 another jurisdiction;

28 (6) "child kidnapping" means a crime or an attempt, solicitation, or
 29 conspiracy to commit a crime, under AS 11.41.300, or a similar law of another
 30 jurisdiction, if the victim was under 18 years of age at the time of the offense.

31 * Sec. 17. AS 18.65.087(a) is amended to read:

1 (a) The Department of Public Safety shall maintain a central registry of sex
 2 offenders and child kidnappers [REQUIRED TO REGISTER UNDER AS 12.63.010]
 3 and shall adopt regulations necessary to carry out the purposes of this section and
 4 AS 12.63. A post of the Alaska state troopers or a municipal police department that
 5 receives registration or change of address information under AS 12.63.010 shall
 6 forward the information within five working days of receipt to the central registry of
 7 sex offenders and child kidnappers. Unless the sex offender or child kidnapper
 8 provides proof satisfactory to the department that the sex offender or child
 9 kidnapper is not physically present in the state or that the time limits described
 10 in AS 12.63.010 have passed, the Department of Public Safety may enter and
 11 maintain in the registry information described in AS 12.63.010 about a sex
 12 offender or child kidnapper that the department obtains from

13 (1) the sex offender or child kidnapper under AS 12.63;

14 (2) a post of the Alaska state troopers or a municipal police
 15 department under (a) of this section;

16 (3) a court judgment under AS 12.55.148;

17 (4) the Department of Corrections under AS 33.30.012 or 33.30.035;

18 (5) the Federal Bureau of Investigation or another sex offender
 19 registration agency outside this state if the information indicates that a sex
 20 offender or child kidnapper is believed to be residing or planning to reside in the
 21 state or cannot be located;

22 (6) a criminal justice agency in the state or another jurisdiction;

23 (7) the department's central repository under AS 12.62; information
 24 entered in the registry from the repository is not subject to the requirements of
 25 AS 12.62.160(c)(3) or (4); or

26 (8) another reliable source as defined in regulations adopted by the
 27 department.

28 * Sec. 18. AS 18.65.087(b) is amended to read:

29 (b) Information about a sex offender or child kidnapper that is contained in
 30 the central registry, including sets of fingerprints, is confidential and not subject to
 31 public disclosure except as to the sex offender's or child kidnapper's name, aliases,

1 address, photograph, physical description, description of motor vehicles, license
 2 numbers of motor vehicles, and vehicle identification numbers of motor vehicles,
 3 place of employment, date of birth, crime for which convicted, date of conviction,
 4 place and court of conviction, [AND] length and conditions of sentence, and a
 5 statement as to whether the offender or kidnapper is in compliance with
 6 requirements of AS 12.63 or cannot be located.

7 * Sec. 19. AS 18.65.087(d) is amended to read:

8 (d) The Department of Public Safety

9 (1) shall adopt regulations to

10 (A) allow a sex offender or child kidnapper to review sex
 11 offender or child kidnapper registration information that refers to that sex
 12 offender or child kidnapper, and if the sex offender or child kidnapper
 13 believes the information is inaccurate or incomplete, to request the department
 14 to correct the information; if the department finds the information is inaccurate
 15 or incomplete, the department shall correct or supplement the information;

16 (B) ensure the appropriate circulation to law enforcement
 17 agencies of information contained in the central registry;

18 (C) ensure the anonymity of members of the public who
 19 request information under this section;

20 (2) shall provide to the Department of Corrections and municipal
 21 police departments the forms and directions necessary to allow sex offenders and child
 22 kidnappers to comply with AS 12.63.010;

23 (3) may adopt regulations to establish fees to be charged for registration
 24 under AS 12.63.010 and for information requests; the fee for registration shall be based
 25 upon the actual costs of performing the registration and maintaining the central registry
 26 but may not be set at a level whereby registration is discouraged; the fee for an
 27 information request may not be greater than \$10;

28 (4) shall remove from the central registry of sex offenders and child
 29 kidnappers under this section information about a sex offender or child kidnapper
 30 required to register under AS 12.63.020(a)(2) at the end of the sex offender's or child
 31 kidnapper's duty to register if the offender or kidnapper has not been convicted of

1 another sex offense or child kidnapping and the offender or kidnapper has
 2 supplied proof of unconditional discharge acceptable to the department; in this
 3 paragraph, "sex offense" and "child kidnapping" have [HAS] the meanings
 4 [MEANING] given in AS 12.63.100.

5 * Sec. 20. AS 18.65.087 is amended by adding new subsections to read:

6 (e) The name, address, and other identifying information of a member of the
 7 public who makes an information request under this section is not a public record
 8 under AS 09.25.100 - 09.25.220.

9 (f) When a sex offender or child kidnapper registers under AS 12.63, the
 10 Department of Public Safety shall make reasonable attempts to verify that the sex
 11 offender or child kidnapper is residing at the registered address. Reasonable attempts
 12 at verifying an address include sending certified mail, return receipt requested, to the
 13 offender or kidnapper at the registered address. The department shall make reasonable
 14 efforts to locate an offender or kidnapper who cannot be located at the registered
 15 address.

16 (g) The department, at least quarterly, shall compile a list of those persons
 17 with a duty to register under AS 12.63.010 who have failed to register, whose
 18 addresses cannot be verified under (f) of this section, or who otherwise cannot be
 19 located. The department shall post this list on the Internet and request the public's
 20 assistance in locating these persons.

21 * Sec. 21. AS 33.30.012 is amended to read:

22 Sec. 33.30.012. Notice of release, parole, community placement, work
 23 release placement, furlough, or escape of sex offender or child kidnapper. (a)
 24 Within 30 [AT THE EARLIEST POSSIBLE DATE, AND IN NO EVENT LATER
 25 THAN 10] days before release of a sex offender or child kidnapper with a duty to
 26 register under AS 12.63, the commissioner shall complete the registration of the sex
 27 offender or child kidnapper if the offender or kidnapper has not previously
 28 registered. The commissioner shall take the sex offender's or child kidnapper's
 29 photograph, and determine if legible fingerprints of the sex offender or child
 30 kidnapper have been previously provided to the Department of Public Safety; if
 31 legible fingerprints for the sex offense or child kidnapping have not previously

1 been provided to the Department of Public Safety, the commissioner shall obtain
 2 the sex offender's or child kidnapper's fingerprints in the manner required by the
 3 Department of Public Safety and shall immediately forward the fingerprints to the
 4 department. When completing the registration or taking the photograph under
 5 this subsection, the commissioner shall also send written notice of release, parole,
 6 community placement, work release placement, or furlough of a sex offender or child
 7 kidnapper [SPECIFIC INMATE CONVICTED OF A SEX OFFENSE] to:

8 (1) the chief of police of the community, if any, in which the inmate
 9 will reside;

10 (2) the Alaska state trooper post located nearest to where the inmate
 11 will reside; [AND]

12 (3) the village public safety officer of the rural community without a
 13 municipal police department or Alaska state trooper post in which the inmate will
 14 reside; and

15 (4) the central registry of sex offenders and child kidnappers.

16 (b) If an inmate convicted of a sex offense or child kidnapping escapes from
 17 a correctional facility, the commissioner shall immediately notify the Department of
 18 Public Safety and the chief of police of the community and the Alaska state trooper
 19 post located closest to where the inmate resided immediately before the inmate's arrest
 20 and conviction.

21 * Sec. 22. AS 33.30.035 is amended to read:

22 Sec. 33.30.035. Notice to sex offenders or child kidnappers of registration
 23 and other requirements [REQUIREMENT]. The department shall provide written
 24 notice to a sex offender or child kidnapper of the registration, verification, and
 25 change of address requirements of AS 12.63.010 [,] and shall obtain a written
 26 [SIGNED ACKNOWLEDGMENT OF] receipt of notice from the sex offender or
 27 child kidnapper (1) at the time of the sex offender's or child kidnapper's release
 28 from a state correctional facility; (2) immediately after taking supervision of a sex
 29 offender or child kidnapper under the Interstate Corrections Compact or
 30 AS 33.36.110. The department shall forward the written receipt to the
 31 Department of Public Safety, along with a description of any identifying features

1 of the offender or kidnapper, the anticipated address of the offender or
 2 kidnapper, and a statement concerning whether the offender or kidnapper has
 3 received treatment for the offender's or kidnapper's mental abnormality or
 4 personality disorder related to the sex offense or child kidnapping. In this
 5 section, "sex offense" and "child kidnapping" have the meanings given in
 6 AS 12.63.100.

7 * Sec. 23. AS 33.30.901(13) is amended to read:

8 (13) "sex offender or child kidnapper." "sex offense." and "child
 9 kidnapping" have [" HAS] the meanings [MEANING] given in AS 12.63.100; [.]

10 * Sec. 24. COURT RULES. (a) The provisions of AS 12.55.148, as amended by sec. 5
 11 of this Act, have the effect of changing Rules 11(c) and 32(c), Alaska Rules of Criminal
 12 Procedure, relating to judgment and sentences for defendants convicted of sex offenses or
 13 child kidnappings.

14 (b) In this section, "sex offense" and "child kidnapping" have the meanings given in
 15 AS 12.63.100, as amended by secs. 15 and 16 of this Act.

16 * Sec. 25. APPLICABILITY. (a) A sex offender or child kidnapper with, before the
 17 effective date of this Act, (1) one conviction for an aggravated sex offense, (2) two or more
 18 convictions for a sex offense or child kidnapping, or (3) one conviction for a child kidnapping
 19 and one conviction for a sex offense, regardless of whether the offender or kidnapper has been
 20 unconditionally discharged from that conviction or convictions, shall register under
 21 AS 12.63.010, as amended by secs. 7 - 11 of this Act, by the 60th day after the effective date
 22 of this Act. A sex offender or child kidnapper with only one conviction for a sex offense that
 23 is not an aggravated sex offense or only one conviction for a child kidnapping, and who was
 24 unconditionally discharged from that offense before July 1, 1984, does not have to register
 25 under this Act. A sex offender or child kidnapper with only one conviction for a sex offense
 26 that is not an aggravated sex offense or only one conviction for a child kidnapping who was
 27 required to register under sec. 12, ch. 41, SLA 1994, shall continue to register as provided by
 28 AS 12.63.010, as amended by secs. 7 - 11 of this Act.

29 (b) A conviction for a sex offense or child kidnapping before the effective date of this
 30 Act is a sex offense or child kidnapping for purposes of the duration of registration
 31 requirement of AS 12.63.020(a), as amended by sec. 12 of this Act.

1 (c) In this section, "aggravated sex offense," "sex offender or child kidnapper," "sex
2 offense," and "child kidnapping" have the meanings given in AS 12.63.100, as amended by
3 secs. 14 - 16 of this Act.

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: HB 252

Revision Date: 02/04/98 Dept. Affected: Public Safety
 Title: Sex Offender Registration BRU: Alaska State Troopers
 Component: AST Director's Office
 Sponsor: Rep Ryan
 Requestor: House Judiciary COMPONENT SERIAL NO. 0508

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

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	14.0	9.0	9.0	9.0	9.0	9.0
TRAVEL						
CONTRACTUAL	7.2	2.5	7.2	2.5	7.2	2.5
SUPPLIES	2.3	.3	.3	2.3	.3	.3
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	23.5	11.8	16.5	13.8	16.5	11.8

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	23.5	11.8	16.5	13.8	16.5	11.8
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	23.5	11.8	16.5	13.8	16.5	11.8

Estimate of current year (FY 98) impact: \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	2	2	2	2	2	2
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

This bill would require quarterly verification (via postcard) of an estimated 500 sex offenders who are obligated to register for their lifetimes. The figures are based on the approximate 230 new sex offenders per year subject to registration and a 10% rate of certified letters (Section 17 of Bill) returned unsigned by the new registrants. The regulation project will be required in the first year only. Newspaper publication costs (Section 16) will be on a biennial basis.

Prepared By: F/Sgt. Don Bowman Phone: 269-5084
 Division: Alaska State Troopers Date: 02/04/98
 Approved by Commissioner: Ronald L. Otte Date: 2 / 4 / 98
 Agency: Department of Public Safety

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 252

Revision Date: _____
Title: " An Act relating to criminal records"

Department Affected: Administration
BFU: Legal and Advocacy Services
Component: Public Defender Agency

Sponsor: Representative Ryan
Requestor: (H) JUD

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	36.5	36.5	36.5	36.5	36.5	36.5
TRAVEL	1.8	1.8	1.8	1.8	1.8	1.8
CONTRACTUAL	8.3	8.3	8.3	8.3	8.3	8.3
SUPPLIES	1.8	1.8	1.8	1.8	1.8	1.8
EQUIPMENT	6.5	2	2	2	2	2
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	54.9	48.6	48.6	48.6	48.6	48.6

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	54.9	48.6	48.6	48.6	48.6	48.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	54.9	48.6	48.6	48.6	48.6	48.6

Estimate of any current year (FY 98) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill amends sex offender registration laws in a number of ways. It changes the failure to register from a class A misdemeanor to a class C felony. It greatly adds to the offenses that give rise to the requirement to register upon conviction, including child kidnapping, promoting prostitution, and solicitation and conspiracy to commit the included offenses. It makes the registration requirements more difficult to satisfy by requiring quarterly verification, reducing the time period to comply, and requiring additional information about motor vehicles, treatment and unconditional discharge. Additionally it provides for statewide newspaper publication of the names and addresses of each person that registers. Each of these changes will greatly increase the numbers of people who fail to comply and will thereby be committing a felony offense. Fiscal impact is certain. There are currently 1573 registered offenders under the existing law. Estimates are that this is only about 50% compliance. In FY 97 the Department of Law prosecuted 127 cases as misdemeanors. Felony cases are the most time consuming and labor intensive of the agency's workload. Because many of the current cases are in Anchorage, a half time Attorney III will be added. This is a very conservative estimate.

Prepared by: Barbara K. Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 2/4/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 252

Revision Date (note if correction) _____ Dept. Affected Law
 Title An Act relating to criminal records, to notice BRU Criminal Division
registration of sex offenders and child kidnappers Rules 11(f) Component 1st-4th Jud Dist, OSPA
 Sponsor Representative Ryan
 Requester House Judiciary Committee Component Serial No 2198-99/2261/79/01/03

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	56.6	56.6	56.6	56.6	56.3	56.6
Travel	5.2	5.2	5.2	5.2	5.2	5.2
Contractual	9.1	9.1	9.1	9.1	9.1	9.1
Supplies	0.9	0.9	0.9	0.9	0.9	0.9
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	78.3	71.8	71.8	71.8	71.8	71.8

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

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF	78.3	71.8	71.8	71.8	71.8	71.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	78.3	71.8	71.8	71.8	71.8	71.8

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 252 increases the charge of failure to register as a sex offender from a class A misdemeanor to a class C felony, and adds child kidnappers as individuals who must register. The bill also requires quarterly written verification of the sex offender's or child kidnapper's address and the other information required. Failure to provide the verification is also a class C felony, as is failure to provide all the information the bill requires at registration.

In 1997, the Department of Law prosecuted 127 people for failure to register as a sex offender around the state. Raising the offense to a class C felony would necessarily require more time on the part of the district attorneys than a class A misdemeanor. They would be relatively straight-forward, however. For example, a grand jury indictment would be required for the felony charge, but these are anticipated to require few witnesses.

Prepared by Joan M. Kasson Phone 465-5370
 Division Attorney General's Office Date 2/2/98
 Approved by Commissioner Bruce M. Botelho, Attorney General Date 2/2/98
 Agency Department of Law

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ANALYSIS CONTINUATION

It is likely that many of the people charged under this law would already have been sentenced for at least one felony, for their original sex offense. Making failure to register a felony raises the stakes for these individuals. With a potential second felony conviction, they would be facing a presumptive sentence, and may be less likely to plead out before trial.

The department believes that a part-time attorney in its Anchorage District Attorney's Office should be sufficient to manage the increased time required to prosecute this crime as a felony. The 1997 prosecutions were spread around the state, with the largest numbers of filings in Anchorage (50), Bethel (29), and Fairbanks (25). We would anticipate using the new part-time attorney position to help the prosecutors in communities outside Anchorage as needed, so have included \$5.0 for case-specific travel.

We have not included additional resources to respond to the new crimes created by the bill. While new felony crimes will increase the caseload, the numbers are too speculative at this point to base a cost estimate on.

The estimated cost of the attorney position is based on the department's FY98/99 standard attorney cost allocation schedule of \$133,500 per full-time equivalent position. The cost schedule includes normal overhead expenses including copies, telecommunication costs, leases and clerical support. One-time equipment costs of \$6.5, and the case-specific travel indicated above, are not included in the schedule and are added separately.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 252

Revision Date (Note if correction) 02/04/98 Dept. Affected Corrections
 Title An Act relating to criminal records, relating to BRU Administration and Operations
notice about and registration of sex offenders and child Component ALL
 Sponsor Representative Ryan
 Requester House Judiciary Component Serial No. #0694

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	197.2	416.4	416.4	416.4	416.4	416.4
TOTAL OPERATING	197.2	416.4	416.4	416.4	416.4	416.4

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	197.2	416.4	416.4	416.4	416.4	416.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	197.2	416.4	416.4	416.4	416.4	416.4

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by Bruce Richards Phone 465-3307
 Division Commissioner's Office Date 2/4/98
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 2/4/98
 Agency Department of Corrections

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The major impact of this legislation for the Department of Corrections (DOC) lies in Sec. 1 where by the penalty for failure to register as a sex offender or a child kidnapper is increased from a Class A misdemeanor to a Class C felony. This increase in penalty results in a two-year presumptive sentence for a second felony conviction.

In 1996 the DOC had 22 admissions for failure to register as a sex offender. Six of these offenders were incarcerated, serving an average sentence of 41 days.

Using six convictions a year the DOC estimates the following fiscal impact:

FY99: 6 inmates X 365 days X \$100.07 per day = \$219.1
 Subtract costs for incarceration under current penalties
 6 inmates X 41 days X \$100.07 per day = (\$24.6)
 \$450.00 Pre-sentence Investigation Report X 6 inmates = \$2.7

FY99 Total: \$197.2 GF

FY99	6	6	\$100.07	365	\$219.1	\$2.7	-\$24.6	\$197.2
FY00	6 + 6	12	\$100.07	365	\$438.3	\$2.7	-\$24.6	\$416.4

*Beginning in FY01 the first offenders (6) under proposed AS 11.56.840 would be released. This results in a no net gain from this point forward since six would enter the system and six would be released.

This fiscal note is based on the current arrest and conviction practices. The Dept. of Public Safety has indicated that they are redoubling their efforts to locate and arrest sex offenders who have failed to register. In addition, the Dept. of Law has indicated that their prosecutions are on the rise.

02-04-98
HB 252

Good Afternoon

My name is Sylvia Dancy, I support Bill # 252. I work at a day care center here in the Nat Su. Valley.

Pedophile! It leaves a bitter taste in my mouth just saying it. When I hear that word, pictures of children being raped flash through my mind. I see them crying, crying from physical and emotional pain. What these pedophile do to the children in this country sickens me!

So I hear some law enforcement officers don't have the time or the money to enforce Bill # 252. Would you want your child or grandchild to be their next victim?

The pedophile moving in next door, you not knowing they had raped a child before. The child molester gets a cute puppy to lure your child over toward their yard!

Oh! I forgot, if you wanted to, being

an officer of the law you could have your buddies
find out all you need to know about your new neighbor.

Well the public relies on the "Sex Offender
List" to know where they are moving into.
Do we not list numbers of days in
the local paper. Well I hold the law makers
respon. For enforcing laws needed to
protect our children, because their criminals are
handed over to you to deal with!

Are you standing up on behalf of
children or the child molester? Our laws
will reflect on whom you decide!

Thank-you

Sylvia R. Davey P.O. Box 873248
Wasilla Alaska 99687-3248

Sylvia R. Davey

February 5, 1998

VIA FAX : 465-3834

TO: Rep. Brian Porter

Re: TeleConference 2-4-98 on HB 252 and HB 360

From: Robin D. Bowen WASP

fax 345-4241

Dear Rep. Porter;

Thank you for the opportunity to again give testimony on behalf of the children of Alaska. As you are aware, it is our goal and desire to see these bills passed. Can you please give me any further input as to the time sequence of these bills going to the Finance Comm. and if it would be beneficial for us to contact that specific committee to make our desires for these bills known.

Also, a name was stated that we did not catch, a Kevin Jardelle (??) to send a written copy of our testimony from yesterday for his review. Could you advise on the proper name and fax number to this gentleman?

Thank you once again for your support and diligence in your service to the people of Alaska.

Respectfully,

Robin D. Bowen



cc: Rep Joe Green 465-4316



STATE of ALASKA

Bethel Legislative Information Office

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Bethel, Alaska 99559
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Written Testimony
for the
Record:

TCN: 80243

Committee: House Jud. 465-4316

Date: 2/12/98

Bill Number(s): HJR 5

Subject(s): Freedom of Conscience

Please enter my testimony into the record.

Doris Notti
Testifier's name (s):

Representing (opt.)

PO Box 2175 Bethel 99559
Address

Phone

February 12, 1998

I wish to air my concerns about HJR 5. This legislation seems directed at allowing Health care workers by allowing them to not participate in acts that they may object to such as abortions. I fear that the vague wording of the legislation may allow other workers to not participate in acts that they find morally objectionable. If a waitress has moral objections to serving minorities would she then be exempt from that act? Would a teacher be allowed to teach creationism rather than Darwinism? The court already makes allowance for the health care workers in the Valley Hospital case it only says the Hospital cannot deny the patient the right to have a legal operation performed.

Dario A. Notti

Dario A. Notti
P.O. Box 2175
BETHEL AK
99559



Alaska State Legislature

Please enter into the record my testimony to the HJUD
committee name

committee on HA 252 dated 2-11-98

bill/subject

Reference: Page 2- Sec 3. Interested person should be "anyone"
not just for determining supervisory or disciplinary of
a minor or dependent adult.

Reference: Page 2- Sec. 4. (a) Not only physically present in the
state, but if you committed this act then moved out
of state.

(1) 3 to 7 days "before" release.

(2) Instead of 3 to 7 days of conviction It should be
immediately

(3) The sex of offender or child kidnapper whether they are
on probation or paroled or what ever the reason they
should be made to immediately register as a sex
offender, because they will not change.

Reference: Sec, 5 page 3. (1) A registration form should have not
just the minimum of the persons name, address, place of
employment, and date of birth they should also have
mailing and residence address not just address, and not

Signed:

Ann Lashley

Testifier

NA

Representing (Optional)

P.O. Box 1737 Kenai, Alaska 99611

Address

(907) 283-9097

Phone No.

Reference: Sec. 5 page 3, (1) just the month, day of month or year of birth but the city and state or country in case that person leaves and they may have family there that might know where that person is. Also the form should have that persons "Phone Number" and most important their "Social Security Number" because they can ~~change~~ change everything else but they can not change their "Social Security Number."

Reference: Sec. 6. Page 3 (c) If or when a sex offender or child kidnapper changes residence they should have to register immediately not 5 to 10 day later.

Reference: Sec 7, Page 3. (a) A sex offender or child kidnapper should be required to register for "Life" not just for 15 years.

Reference: Sec. 9, Page 4. (1) It should not matter if the sex offender or child kidnapper is convicted of (A), (B) it should not end after 15 years

Reference: Sec. 10, Page 5. ~~(a)~~ (a) Notification should not be just to other jurisdictions but to their victims and to their families that this person is moving "in or out of state." Also when this bill becomes law the sex offenders and child kidnappers that are not in prison whether they still live in Alaska or have moved out of state should have to register for the ~~state~~ safety of our children."

Reference: Sec. 15, page 6 (10) Information about a sex offender or child kidnapper that is contained in the central registry should be available to the public.

Reference: Sec 16, page 7, (3) The fee for an information request from the public should be \$0.00. Because most like me cannot afford it.

(4) The sex offender or child kidnappers information should never be removed from the central registry because from past and personal experience with my ex-husband they will not change so whether or not they are ever committed ~~of~~ of this kind of crime again they need to be registered for life.

Reference: Sec 18, page 8. Notice of release should not only go to the chief of police, the State Troopers or village public safety officer but ~~also~~ also to the victims and their family. But ^{also} the town they will live in should be notified so we can protect our children from these monsters.

Reference: Sec 23, page 10. ~~line~~ line 14-17. No matter whether the person has been convicted of 1 or more sex offense and whether it was aggravated or not and also if it happened before July, 1984 or after they should have to register. If these people do it once they will and do it ~~again~~ again and again I know from personal experience.

Thank You for Your Time.

Alaska State Legislature

House of Representatives

COMMITTEE ASSIGNMENTS

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SPONSOR STATEMENT for HB 252

This bill is offered to intensify sex offender and child kidnapper registration statutes and the registration process in order to better protect our citizens from criminals. Numerous citizens will be protected, including vulnerable adults and children.

The intent here is to comply with recent changes to the law including the Wetterling Act and Violent Offender Registration Act and remain eligible for \$200,000 in funds granted to states that comply with these Acts.

1. Failure to register as a sex offender or a child kidnapper, or fail to properly register results in a class C Felony; an increase from a misdemeanor so as to induce persons to register and do so properly.
2. Provides for the reduction of the time an offender is unregistered and unsupervised by reducing reporting times and reduces the time a sex offender or child kidnapper has to report a change of address. This bill also provides for annual or quarterly verifications of addresses of a sex offender or a child kidnapper.
3. Adjust the length of time a sex offender or a child kidnapper must register to meet requirements of 42 U.S.C. 14071. Requires the Department of Public Safety to notify the Federal Bureau of Investigation if a sex offender or child kidnapper does not register or cannot be found or if such a person moves to another state, the FBI and that state are notified.

0-LS0818P
Luckhaupt
2/3/98

CS FOR HOUSE BILL NO. 252()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE RYAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal records; relating to notice about and registration of
2 sex offenders and child kidnappers; and amending Rules 11(c) and 32(c), Alaska
3 Rules of Criminal Procedure."

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

5 * Section 1. AS 11.56.840 is amended to read:

6 Sec. 11.56.840. Failure to register as a sex offender or child kidnapper.

7 (a) A person commits the crime of failure to register as a sex offender or child
8 kidnapper if the person [WHIO] knowingly fails to (1) register, (2) file the written
9 notice of change of address, [OR] (3) file the annual or quarterly written notice,
10 verification, or statement, or (4) supply all of the information required to be
11 submitted under (1) - (3) of this subsection, as required in AS 12.63.010.

12 (b) Failure to register as a sex offender or child kidnapper is [, IS
13 GUILTY OF] a class C felony [CLASS A MISDEMEANOR].

14 * Sec. 2. AS 12.55.148 is amended to read:

1 **Sec. 12.55.148. Judgment for sex offenses or child kidnappings.** (a) When
2 a defendant is convicted of a sex offense or child kidnapping by a court of this state,
3 the written judgment must set out the requirements of AS 12.63.010 and, if it can be
4 determined by the court, whether that conviction will require the offender or
5 kidnapper to register for life or a lesser period under AS 12.63.

6 (b) In this section, "sex offense" and "child kidnapping" have [HAS] the
7 meanings [MEANING] given in AS 12.63.100.

8 * **Sec. 3.** AS 12.62.900(23) is amended to read:

9 (23) "serious offense" means a conviction for a violation or for an
10 attempt, solicitation, or conspiracy to commit a violation [FOR A FELONY
11 OFFENSE, A CRIME INVOLVING DOMESTIC VIOLENCE, OR A VIOLATION
12 OR ATTEMPTED VIOLATION] of any of the following laws, or of the laws of
13 another jurisdiction with substantially similar elements:

14 (A) a felony offense;

15 (B) a crime involving domestic violence;

16 (C) AS 11.41.410 - 11.41.470;

17 (D) [(B)] AS 11.51.130 [AS 11.51.130(a)(1) - (3)];

18 (E) [(C)] AS 11.61.110(a)(7) or 11.61.125;

19 (F) [(D)] AS 11.66.100 - 11.66.130; or

20 (G) former AS 11.15.120, former 11.15.134, or assault with
21 the intent to commit rape under former AS 11.15.160;

22 (H) [(E)] former AS 11.40.080, 11.40.110, 11.40.130, or
23 11.40.200 - 11.40.420, if committed before January 1, 1980;

24 * **Sec. 4.** AS 12.63.010(a) is amended to read:

25 (a) A sex offender or child kidnapper who is physically present in the state
26 shall register as provided in this section. The sex offender or child kidnapper shall
27 register [WITHIN]

28 (1) at the time [SEVEN DAYS OF RELEASE FROM AN IN-STATE
29 CORRECTIONAL FACILITY;

30 (2) SEVEN DAYS] of conviction for a sex offense or child
31 kidnapping [IF THE SEX OFFENDER IS NOT SENTENCED TO A TERM OF

next working day

1 INCARCERATION]; or

2 (2) within seven [(3) 14] days of becoming physically present in the
3 state, except the sex offender or child kidnapper shall register within three [SEVEN]
4 days of becoming physically present in the state if the sex offender or child
5 kidnapper

6 (A) is a probationer or parolee being supervised by the state as
7 the receiving state under AS 33.36.110 - 33.36.120; or

8 (B) has been released from an out-of-state correctional facility
9 where the sex offender or child kidnapper was serving a term of incarceration
10 for a sex offense or child kidnapping conviction in this state.

11 * Sec. 5. AS 12.63.010(b) is amended to read:

12 (b) A sex offender or child kidnapper required to register under (a) of this
13 section shall register in person with the Department of Corrections if the offender
14 or kidnapper is incarcerated at the time of conviction or at the Alaska state trooper
15 post or municipal police department located nearest to where the sex offender or child
16 kidnapper resides at the time of registration. To fulfill the registration requirement,
17 the sex offender or child kidnapper shall

18 (1) complete a registration form that includes, at a minimum,

19 (A) the sex offender's or child kidnapper's name, address,
20 place of employment, date of birth; [.]

21 (B) each conviction for a sex offense or child kidnapping for
22 which the duty to register has not terminated under AS 12.63.020, date of sex
23 offense or child kidnapping convictions, place and court of sex offense or
24 child kidnapping convictions, whether the sex offender or child kidnapper
25 has been unconditionally discharged from the conviction for a sex offense
26 or child kidnapping and the date of the unconditional discharge; if the
27 offender or kidnapper asserts that the offender or kidnapper has been
28 unconditionally discharged, the offender or kidnapper shall supply proof
29 of that discharge acceptable to the department;

30 (C) all aliases used; [.]

31 (D) [AND] driver's license number;

1 (E) description, license numbers, and registration numbers
2 of motor vehicles the sex offender or child kidnapper has access to
3 regardless of whether that access is regular or not;

4 (F) any identifying features of the sex offender or child
5 kidnapper;

6 (G) anticipated changes of address; and

7 (H) a statement concerning whether the offender or
8 kidnapper has had treatment for a mental abnormality or personality
9 disorder since the date of conviction for an offense requiring registration
10 under this chapter;

11 (2) allow the Alaska state troopers, Department of Corrections, or
12 municipal police to take a complete set of the sex offender's or child kidnapper's
13 fingerprints and to take the sex offender's or child kidnapper's photograph.

14 * Sec. 6. AS 12.63.010(c) is amended to read:

15 (c) If a sex offender or child kidnapper changes residence [WITHIN THE
16 STATE] after having registered under (a) of this section, the sex offender or child
17 kidnapper shall provide written notice of the change to the Alaska state trooper post
18 or municipal police department located nearest to the new residence by the next
19 working day following the change or, if the residence change is out of state, to the
20 central registry within 10 days of the change.

21 * Sec. 7. AS 12.63.010(d) is amended to read:

22 (d) A sex offender or child kidnapper required to register

23 (1) for 15 years under (a) of this section and AS 12.63.020(a)(2) shall,
24 annually, during the term of a duty to register under AS 12.63.020, on a date set by
25 the department at the time of the sex offender's or child kidnapper's initial
26 registration, provide written verification [NOTICE] to the department, in the manner
27 required by the department, of the sex offender's or child kidnapper's address
28 and any changes to the information previously [INITIALLY] provided under (b)(1)
29 of this section;

30 (2) for life under (a) of this section and AS 12.63.020(a)(1) shall, not
31 less than quarterly, on a date set by the department, provide written verification

1 to the department, in the manner required by the department, of the sex
2 offender's or child kidnapper's address and any changes to the information
3 previously provided under (b)(1) of this section [, OR IF THERE ARE NO
4 CHANGES, A STATEMENT TO THAT EFFECT].

5 * Sec. 8. AS 12.63.010 is amended by adding a new subsection to read:

6 (f) The registration form required to be submitted under (b) of this section and
7 the annual or quarterly verifications must be sworn to by the offender or kidnapper and
8 contain an admonition that a false statement shall subject the offender or kidnapper to
9 prosecution for perjury.

10 * Sec. 9. AS 12.63.020 is amended to read:

11 Sec. 12.63.020. Duration of sex offender or child kidnapper duty to
12 register. (a) The duty of a sex offender or child kidnapper to comply with the
13 requirements of AS 12.63.010 for each sex offense or child kidnapping

14 (1) continues for the lifetime of a sex offender or child kidnapper
15 convicted of

16 (A) one aggravated sex offense; or

17 (B) two or more sex offenses, two or more child kidnappings,
18 or one sex offense and one child kidnapping;

19 (2) ends 15 years following the sex offender's or child kidnapper's
20 unconditional discharge from a conviction for a single sex offense that is not an
21 aggravated sex offense or for a single child kidnapping if the sex offender or child
22 kidnapper has supplied proof that is acceptable to the department of the
23 unconditional discharge; the registration period under this paragraph

24 (A) is tolled for each year that a sex offender or child
25 kidnapper

26 (i) fails to comply with the requirements of this
27 chapter;

28 (ii) is incarcerated for the offense or kidnapping for
29 which the offender or kidnapper is required to register or for any
30 other offense;

31 (B) may include the time a sex offender or child kidnapper

1 was absent from this state if the sex offender or child kidnapper has
2 complied with the sex offender or child kidnapper registration
3 requirements of the jurisdiction in which the offender or kidnapper was
4 located and if the sex offender or child kidnapper provides the department
5 with proof of the compliance while the sex offender or child kidnapper was
6 absent from this state; and

7 (C) continues for a sex offender or child kidnapper who has
8 not supplied proof acceptable to the department of the offender's or
9 kidnapper's unconditional discharge for the sex offense or child
10 kidnapping requiring registration.

11 (b) The department shall adopt, by regulation, procedures to notify a sex
12 offender or child kidnapper who, on the registration form under AS 12.63.010, lists
13 a conviction for a sex offense or child kidnapping that is a violation of a former law
14 of this state or a law of another jurisdiction, of the duration of the offender's or
15 kidnapper's duty under (a) of this section for that sex offense or child kidnapping.
16 As a part of the regulations, the department shall require the offender or
17 kidnapper to supply proof acceptable to the department of unconditional
18 discharge and the date it occurred.

19 * Sec. 10. AS 12.63 is amended by adding a new section to read:

20 Sec. 12.63.030. Notification of other jurisdictions. (a) If a sex offender or
21 child kidnapper notifies the department that the sex offender or child kidnapper is
22 moving from the state, the department shall notify the Federal Bureau of Investigation
23 and the state where the sex offender or child kidnapper is moving of the sex offender's
24 or child kidnapper's intended address.

25 (b) If a sex offender or child kidnapper fails to register or to verify the sex
26 offender's or child kidnapper's address and registration under this chapter, or the
27 department does not know the location of a sex offender or child kidnapper required
28 to register under this chapter, the department shall immediately notify the Federal
29 Bureau of Investigation.

30 * Sec. 11. AS 12.63.100(2) is amended to read:

31 (2) "sex offender or child kidnapper" means a person convicted of a

1 sex offense or child kidnapping in this state or another jurisdiction regardless of
 2 whether the conviction occurred before, after, or on the effective date of this Act
 3 [AUGUST 10, 1994];

4 * Sec. 12. AS 12.63.100(3) is amended to read:

5 (3) "sex offense" means a crime, or an attempt, solicitation, or
 6 conspiracy to commit a crime, under the following statutes or a similar law of
 7 another jurisdiction:

8 (A) AS 11.41.410 - 11.41.438, 11.41.440(a)(2), 11.41.450, or
 9 11.41.455;

10 (B) [,] AS 11.61.125;

11 (C) [,] AS 11.66.110 or 11.66.130(a)(2) if the person who was
 12 induced or caused to engage in prostitution was 16 or 17 years of age at
 13 the time of the offense; or

14 (D) [,] former AS 11.15.120, former [OR] 11.15.134, or
 15 assault with the intent to commit rape under former AS 11.15.160, [OR]
 16 former AS 11.40.110, or 11.40.200 [, OR A SIMILAR LAW IN ANOTHER
 17 JURISDICTION]:

18 * Sec. 13. AS 12.63.100 is amended by adding new paragraphs to read:

19 (5) "aggravated sex offense" means a crime, or an attempt, solicitation,
 20 or conspiracy to commit a crime, under AS 11.41.410, 11.41.434, or a similar law of
 21 another jurisdiction:

22 (6) "child kidnapping" means a crime or an attempt, solicitation, or
 23 conspiracy to commit a crime, under AS 11.41.300, or a similar law of another
 24 jurisdiction, if the victim was under 18 years of age at the time of the offense.

25 * Sec. 14. AS 18.65.087(a) is amended to read:

26 (a) The Department of Public Safety shall maintain a central registry of sex
 27 offenders and child kidnappers [REQUIRED TO REGISTER UNDER AS 12.63.010]
 28 and shall adopt regulations necessary to carry out the purposes of this section and
 29 AS 12.63. A post of the Alaska state troopers or a municipal police department that
 30 receives information under AS 12.63.010 shall forward the information within five
 31 working days of receipt to the central registry of sex offenders and child kidnappers.

1 Regardless of whether the department has proof that a sex offender or child
2 kidnapper is physically present in the state or that the time limits described in
3 AS 12.63.010 have passed, the Department of Public Safety may enter and
4 maintain in the registry information described in AS 12.63.010 about a sex
5 offender or child kidnapper that the department obtains from

6 (1) the sex offender or child kidnapper under AS 12.63;

7 (2) a post of the Alaska state troopers or a municipal police
8 department under (a) of this section;

9 (3) a court judgment under AS 12.55.148;

10 (4) the Department of Corrections under AS 33.30.012 or 33.30.035;

11 (5) the Federal Bureau of Investigation or another sex offender
12 registration agency outside this state if the information indicates that a sex
13 offender or child kidnapper is believed to be residing or planning to reside in the
14 state or cannot be located;

15 (6) a criminal justice agency in the state or another jurisdiction;

16 (7) the department's central repository under AS 12.62; information
17 entered in the registry from the repository is not subject to the requirements of
18 AS 12.62.160(c)(3) or (4); or

19 (8) another reliable source as defined in regulations adopted by the
20 department.

21 * Sec. 15. AS 18.65.087(b) is amended to read:

22 (b) Information about a sex offender or child kidnapper that is contained in
23 the central registry, including sets of fingerprints, is confidential and not subject to
24 public disclosure except as to the sex offender's or child kidnapper's name, aliases,
25 address, photograph, physical description, description, license numbers, and
26 registration numbers of motor vehicles, place of employment, date of birth, crime
27 for which convicted, date of conviction, place and court of conviction, [AND] length
28 and conditions of sentence, and a statement as to whether the offender or
29 kidnapper is in compliance with requirements of registration or cannot be located.

30 * Sec. 16. AS 18.65.087(d) is amended to read:

31 (d) The Department of Public Safety

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(1) shall adopt regulations to

(A) allow a sex offender or child kidnapper to review sex offender or child kidnapper registration information that refers to that sex offender or child kidnapper, and if the sex offender or child kidnapper believes the information is inaccurate or incomplete, to request the department to correct the information; if the department finds the information is inaccurate or incomplete, the department shall correct or supplement the information;

(B) ensure the appropriate circulation to law enforcement agencies of information contained in the central registry;

(C) ensure the anonymity of members of the public who request information under this section;

(2) shall provide to the Department of Corrections and municipal police departments the forms and directions necessary to allow sex offenders and child kidnappers to comply with AS 12.63.010;

(3) may adopt regulations to establish fees to be charged for registration under AS 12.63.010 and for information requests; the fee for registration shall be based upon the actual costs of performing the registration and maintaining the central registry but may not be set at a level whereby registration is discouraged; the fee for an information request may not be greater than \$10;

(4) shall remove from the central registry of sex offenders and child kidnappers under this section information about a sex offender or child kidnapper required to register under AS 12.63.020(a)(2) at the end of the sex offender's or child kidnapper's duty to register if the offender or kidnapper has not been convicted of another sex offense or child kidnapping and the offender or kidnapper has supplied proof of unconditional discharge acceptable to the department; in this paragraph, "sex offense" and "child kidnapping" have [HAS] the meanings [MEANING] given in AS 12.63.100.

* Sec. 17. AS 18.65.087 is amended by adding new subsections to read:

(e) The name, address, and other identifying information of a member of the public who makes an information request under this section is not a public record under AS 09.25.100 - 09.25.220.

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(f) When a sex offender or child kidnapper registers under AS 12.63, the Department of Public Safety shall make reasonable attempts to verify that the sex offender or child kidnapper is residing at the registered address. Reasonable attempts at verifying an address include sending certified mail, return receipt requested, to the offender or kidnapper at the registered address. The department shall make reasonable efforts to locate an offender or kidnapper who cannot be located at the registered address.

(g) The department, at least quarterly, shall compile a list of those persons with a duty to register under AS 12.63.010 who have failed to register or whose addresses cannot be verified under (f) of this section. The department shall post this list on the Internet and request the public's assistance in locating these persons.

* Sec. 18. AS 33.30.012 is amended to read:

Sec. 33.30.012. Notice of release, parole, community placement, work release placement, furlough, or escape of sex offender or child kidnapper. (a) Within 30 [AT THE EARLIEST POSSIBLE DATE, AND IN NO EVENT LATER THAN 10] days before release of a sex offender or child kidnapper with a duty to register under AS 12.63, the commissioner shall complete the registration of the sex offender or child kidnapper if the offender or kidnapper has not previously registered. The commissioner shall take the sex offender's or child kidnapper's photograph, and determine if legible fingerprints of the sex offender or child kidnapper have been previously provided to the Department of Public Safety; if legible fingerprints have not previously been provided to the Department of Public Safety, the commissioner shall obtain the sex offender's or child kidnapper's fingerprints in the manner required by the Department of Public Safety and shall immediately forward the fingerprints to the department. When completing the registration or taking the photograph under this subsection, the commissioner shall also send written notice of release, parole, community placement, work release placement, or furlough of a sex offender or child kidnapper [SPECIFIC INMATE CONVICTED OF A SEX OFFENSE] to:

(1) the chief of police of the community, if any, in which the inmate will reside;

1 (2) the Alaska state trooper post located nearest to where the inmate
2 will reside; [AND]

3 (3) the village public safety officer of the rural community without a
4 municipal police department or Alaska state trooper post in which the inmate will
5 reside; and

6 (4) the Department of Public Safety.

7 (b) If an inmate convicted of a sex offense or child kidnapping escapes from
8 a correctional facility, the commissioner shall immediately notify the Department of
9 Public Safety and the chief of police of the community and the Alaska state trooper
10 post located closest to where the inmate resided immediately before the inmate's arrest
11 and conviction.

12 * Sec. 19. AS 33.30.035 is amended to read:

13 Sec. 33.30.035. Notice to sex offenders or child kidnappers of registration
14 requirement. The department shall provide written notice to a sex offender or child
15 kidnapper of the registration, notice, and change of address requirements of
16 AS 12.63.010 [,] and shall obtain a written [SIGNED ACKNOWLEDGMENT OF]
17 receipt of notice from the sex offender or child kidnapper (1) at the time of the sex
18 offender's or child kidnapper's release from a state correctional facility; (2)
19 immediately after taking supervision of a sex offender or child kidnapper under the
20 Interstate Corrections Compact or AS 33.36.110. The department shall forward the
21 written receipt to the Department of Public Safety, along with a description of any
22 identifying features of the offender or kidnapper, the anticipated address of the
23 offender or kidnapper, and a statement concerning whether the offender or
24 kidnapper has received treatment for the offender's or kidnapper's mental
25 abnormality or personality disorder related to the sex offense or child kidnapping.
26 In this section, "sex offense" and "child kidnapping" have the meanings given in
27 AS 12.63.100.

28 * Sec. 20. AS 33.30.901(13) is amended to read:

29 (13) "sex offender or child kidnapper," "sex offense," and "child
30 kidnapping" have [" HAS] the meanings [MEANING] given in AS 12.63.100; [.]

31 * Sec. 21. COURT RULES. (a) The provisions of AS 12.55.148, as amended by sec. 2

1 of this Act, have the effect of changing Alaska Rules of Criminal Procedure 11(c) and 32(c)
2 relating to judgment and sentences for defendants convicted of sex offenses or child
3 kidnappings.

4 (b) In this section, "sex offense" and "child kidnapping" have the meanings given in
5 AS 12.63.100, as amended by secs. 12 and 13 of this Act.

6 * **Sec. 22. APPLICABILITY.** (a) A sex offender or child kidnapper with, before the
7 effective date of this Act, (1) one conviction for an aggravated sex offense, (2) two or more
8 convictions for a sex offense or child kidnapping, or (3) one conviction for a child kidnapping
9 and one conviction for a sex offense, regardless of whether the offender or kidnapper has been
10 unconditionally discharged from that conviction or convictions, shall register under
11 AS 12.63.010, as amended by secs. 4 - 8 of this Act, by the 60th day after the effective date
12 of this Act. A sex offender or child kidnapper with only one conviction for a sex offense that
13 is not an aggravated sex offense or only one conviction for a child kidnapping who was
14 unconditionally discharged from that offense before July 1, 1984, does not have to register
15 under this Act. A sex offender or child kidnapper with only one conviction for a sex offense
16 that is not an aggravated sex offense or only one conviction for a child kidnapping who was
17 required to register under sec. 12, ch. 41, SLA 1994, shall continue to register as provided by
18 AS 12.63.010, as amended by secs. 4 - 8 of this Act.

19 (b) A conviction for a sex offense or child kidnapping before the effective date of this
20 Act is a sex offense or child kidnapping for purposes of the duration of registration
21 requirement of AS 12.63.020(a), as amended by sec. 9 of this Act.

22 (c) In this section, "aggravated sex offense," "sex offender or child kidnapper," "sex
23 offense," and "child kidnapping" have the meanings given in AS 12.63.100, as amended by
24 secs. 11 - 13 of this Act.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSHB 252(), Draft version "L"

1 Page 4, line 20:

2 Delete "be sworn to by the offender or kidnapper and"

3 Page 4, line 21:

4 Delete "shall"

5 Insert "may"

6 Page 4, line 22:

7 Delete "perjury"

8 Insert "unsworn falsification"

p 5 line 7

*Needs to be sworn to allow for perjury
otherwise its Unsworn falsification.*

*perjury 11,56,200 class B felony
unsworn falsification class A mis*

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSHB 252(), Draft version "L"

1 Page 1, following line 4:

2 Insert a new bill section to read:

3 **** Section 1.** AS 11.56 is amended by adding a new section to read:

4 **Sec. 11.56.835. Failure to register as a sex offender in the first degree.** (a)

5 A person commits the crime of failure to register as a sex offender or child kidnapper
6 in the first degree if the person violates AS 11.56.840 with intent to escape detection
7 or identification and, by escaping detection or identification, facilitate the person's
8 commission of a sex offense or child kidnapping.

9 (b) In this section, "child kidnapping" and "sex offense" have the meanings
10 given in AS 12.63.100.

11 (c) Failure to register as a sex offender or child kidnapper in the first degree
12 is a class C felony."

13 Page 1, line 5:

14 Delete "Section 1."

15 Insert "Sec. 2."

16 Renumber the following bill sections accordingly.

17 Page 1, line 6, following "kidnapper":

18 Insert "in the second degree"

19 Page 1, line 8, following "kidnapper":

20 Insert "in the second degree"

*Changes from a knowingly
to an intentional standard
for a class C felony*

*The "knowingly" standard
would result in a
class "A" misd.*

1 Page 1, line 12, following "kidnapper":

2 Insert "in the second degree"

3 Page 1, line 13:

4 Delete "class C felony [CLASS A MISDEMEANOR]"

5 Insert "class A misdemeanor"

6 Renumber internal references to bill sections in accordance with this amendment. Below are
7 all internal bill section references in this bill:

8 Page 10, line 26

9 Page 10, line 31

10 Page 11, line 6

11 Page 11, line 13

12 Page 11, line 16

13 Page 11, line 19

- (B) approaching or confronting that person in a public place or on private property;
 - (C) appearing at the workplace or residence of that person;
 - (D) entering onto or remaining on property owned, leased, or occupied by that person;
 - (E) contacting that person by telephone;
 - (F) sending mail or electronic communications to that person;
 - (G) placing an object on, or delivering an object to, property owned, leased, or occupied by that person;
 - (4) "victim" means a person who is the target of a course of conduct.
- (c) Stalking in the second degree is a class A misdemeanor. (§ 1 ch 40 SLA 1993)

COMMENTARY

The 1993 amendment became effective on May 28, 1993. Section 8, ch. 40, SLA 1993, provides as follows:

AS 11.41.260 and 11.41.270, enacted by sec. 1 of this Act, apply to acts committed on or after the effective date of this Act. However, to the extent a previous conviction is an element of the offense under AS 11.41.260, that previous conviction may have occurred before, on, or after the effective date of this Act.

The following letter of intent was adopted by the Senate to clarify that the victim's fear must be actual, rather than "reasonable":

Letter of Intent
for
CS HB 64(FIN)

It is the intent of the Senate that, in prosecutions for the offense of stalking in the first degree in violation of AS 11.41.260 or stalking in the second degree in violation of AS 11.41.270, the State of Alaska must prove beyond a reasonable doubt that the victim was placed in actual fear of death or physical injury by the defendant's course of conduct. This gives the same meaning to the phrase "recklessly places another person in fear" as is given to that phrase in the offense of assault in the third degree in violation of AS 11.41.220(a)(1) ("recklessly places another person in fear of imminent serious physical injury by means of a dangerous instrument"). This is also consistent with the decision of the Alaska Court of Appeals in *DeHart v. State*, 781 P.2d 989 (Alaska Ct. App. 1989).

(1993 Senate Journal 1026-27 (Apr. 1, 1993)).

Effective dates. — Section 9, ch. 40, SLA 1993 makes this section effective May 28, 1993, in accordance with AS 01.10.070(c).

Article 3.

Kidnapping and Custodial Interference.

Section

- 300. Kidnapping
- 320. Custodial interference in the first degree
- 330. Custodial interference in the second degree
- 370. Definitions

Sec. 11.41.300. Kidnapping. (a) A person commits the crime of kidnapping if

- (1) the person restrains another with intent to
 - (A) hold the restrained person for ransom, reward, or other payment;
 - (B) use the restrained person as a shield or hostage;
 - (C) inflict physical injury upon or sexually assault the restrained person or place the restrained person or a third person in apprehension that any person will be subjected to serious physical injury or sexual assault;
 - (D) interfere with the performance of a governmental or political function;
 - (E) facilitate the commission of a felony or flight after commission of a felony; or
- (2) the person restrains another
 - (A) by secreting and holding the restrained person in a place where the restrained person is not likely to be found; or

(B) under circumstances which expose the restrained person to a substantial risk of serious physical injury.

(b) In a prosecution under (a)(2)(A) of this section, it is an affirmative defense that

- (1) the defendant was a relative of the victim;
- (2) the victim was a child under 18 years of age or an incompetent person; and
- (3) the primary intent of the defendant was to assume custody of the victim.

(c) Except as provided in (d) of this section, kidnapping is an unclassified felony and is punishable as provided in AS 12.55.

(d) In a prosecution for kidnapping, it is an affirmative defense which reduces the crime to a class A felony that the defendant voluntarily caused the release of the victim alive in a safe place before arrest, or within 24 hours after arrest, without having caused serious physical injury to the victim and without having engaged in conduct described in AS 11.41.410(a) or 11.41.420. (§ 3 ch 166 SLA 1978; am § 7 ch 102 SLA 1980; am § 6 ch 4 SLA 1990)

COMMENTARY

From Senate Journal Supp. No. 47, at 18-20 (June 2, 1978):

There are three methods of committing kidnapping under the Code. Each requires that the defendant restrain his victim. "Restrain" is defined in AS 11.41.370(3). Restraining may be accomplished by moving a person or by confining him. The person's movements must be restricted unlawfully and without his consent. Paragraphs (A) and (B) of the definition describe when a restraint is "without consent."

Kidnapping will occur when the defendant restrains his victim with one of the five intents specified in paragraphs (A)-(E) of subsection (a)(1). The intents describe the most typical kidnapping situations. Note that there is no requirement that the intent actually be carried out.

Paragraph (A) covers the intent to hold the victim for ransom, reward or other payment. The phrase "or other payment" would cover the situa-

tion where a child was taken from his parent to be sold to a "blackmarket" adoption ring. Paragraph (D) refers to an intent to interfere with the performance of any governmental or political function. This would include, for example, kidnapping a legislator so that he would be unable to participate in an official debate. Paragraph (E) covers a restraint with intent to facilitate a felony. Movements that are merely incidental to the commission of another crime do not fall within this provision. Holding a person at gunpoint during a robbery, for example, will not be elevated to kidnapping even though the person's movements are restricted.

Kidnapping will also occur when a person is restrained under subsection (a)(2). Because it is impossible to list all the unlawful intents that may be involved in kidnapping under subsection (a)(1) and because proof of the defendant's intent may sometimes be impossible, paragraph (A) of subsection (a)(2) provides that restraining another person by secreting and holding him in a place where he is not likely to be found is kidnapping.

Pursuant to paragraph (B) of subsection (a)(2), restraining another person under circumstances which expose him to a substantial risk of serious physical injury will also qualify as kidnapping. The primary application of this provision will be in situations where the victim is not secreted and it is impossible to establish whether the defendant's intent fell within subsection (a)(1).

Subsection (b) provides that a relative (defined in AS 11.41.370(2)) has an affirmative defense to a charge of kidnapping under (a)(2)(A) if he restrains a child under 18 or an incompetent person with the primary intent to assume custody over him. The justification for preferential treatment afforded relatives is the view that relatives who take a child or incompetent person from their lawful custodian are acting in response to understandable, if misguided, domestic passion and have genuine interest or affection for the victim. Their conduct is neither as culpable as that of the stranger who takes the child nor are they as likely to endanger the victim's welfare or sense of security as would the stranger. However, while the relative has not committed kidnapping under subsection (a)(2)(A), he could still be charged with custodial interference or kidnapping under subsection (a)(1) or (a)(2)(B).

Subsection (c) provides that kidnapping is an unclassified felony punishable by a 5-99 year term of imprisonment in AS 12.55.125(b). However, the offense can be reduced to an A felony if the defendant successfully establishes the affirmative defense specified in subsection (d).

Subsection (d) provides an affirmative defense (which the defendant must prove by a preponderance of the evidence) to kidnapping. The successful raising of the defense will not free the defendant; it merely reduces the penalty for kidnapping. The defense is available if the defendant voluntarily releases the victim in a safe place before arrest, or within 24 hours after arrest, without having caused serious physical injury to him and without having sexually assaulted him. This affirmative defense should encourage the

defendant to exercise care in the custody of a victim and to release the victim when doubts arise in the kidnapper's mind.

From Senate Journal Supp. No. 44, at 5-6 (May 29, 1980):

The amendment to (a)(1)(C) clarifies that "restraint" (defined in AS 11.41.370(3)) of a victim with intent to commit a sexual assault is kidnapping. While such conduct is already generally covered under AS 11.41.300(a)(1)(E), it is preferable to specifically prohibit this particularly serious form of conduct in the kidnapping statute.

It should be noted that this amendment would not turn a restraint that was merely incidental to a sexual assault into kidnapping. For example, a defendant who forces a victim who is jogging along a bike path into woods a few feet from the bike path in order to commit a sexual assault has not committed kidnapping. The "restraint" of the victim was too closely related to the sexual assault, both in time and the degree of movement, to qualify as a separate crime. However, if the victim was forced into the defendant's car and then driven a block to a nearby deserted house and sexually assaulted, or sexually assaulted while his accomplice was driving the car, kidnapping has occurred. In this situation the restraint was specifically done to facilitate the commission of the felony and there was significant confinement or movement of the victim beyond that necessary to commit the sexual assault. (See generally *Levshakoff v. State*, 565 P.2d 504 (Alaska 1977)).

CROSS REFERENCES

- Definition of "restrain," "relative" - AS 11.41.370
- Definition of "physical injury," "serious physical injury," "incompetent person," "affirmative defense" - AS 11.81.900(b)
- Definition of "intentionally" - AS 11.81.900(a)
- Assault in the first, second, third, and fourth degree - AS 11.41.200 - 11.41.230
- Reckless endangerment - AS 11.41.250
- Custodial interference in the first and second degree - AS 11.41.320, 11.41.330
- Sexual assault in the first and second degree - AS 11.41.410, 11.41.420
- Failure to permit visitation with a minor - AS 11.51.125
- Term of imprisonment for kidnapping - AS 12.55.125(b)
- Original Code Provision - AS 11.15.260
- TD: I, 58-62.

Effect of amendments. — The 1990 amendment, effective February 2, 1990, made an internal reference change in subsection (d).

Sec. 11.41.320. Custodial interference in the first degree. (a) A person commits the crime of custodial interference in the first degree if the person violates AS 11.41.330 and causes the victim to be removed from the state.

(b) Custodial interference in the first degree is a class C felony. (§ 3 ch 166 SLA 1978)

Sec. 11.41.330. Custodial interference in the second degree. (a) A person commits the crime of custodial interference in the second degree if, being a relative of a child under 18 years of age or a

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relative of an incompetent person and knowing that the person has no legal right to do so, the person takes, entices, or keeps that child or incompetent person from a lawful custodian with intent to hold the child or incompetent person for a protracted period.

(b) Custodial interference in the second degree is a class A misdemeanor. (§ 3 ch 166 SLA 1978)

COMMENTARY

From Senate Journal Supp. No. 47, at 21 (June 12, 1978):

While aimed primarily at eliminating kidnapping charges from child custody disputes, the statutes on custodial interference protect "parental custody against all unlawful interruption, even when the child itself is a willing, undeceived participant in the attack on this interest of its parent." Model Penal Code § 212.4, Comments (Tent. Draft No. 11, 1960).

The second degree crime, a class [A] misdemeanor, encompasses any interference with lawful custody rights by a relative acting with the intent to hold the victim for a protracted period. The defendant must know he has no legal right to interfere with the custody of the victim. The statute covers not only child custody situations, but also interference with children in state custody, incompetents or others who are entrusted by law to the custody of another person or institution.

Custodial interference is aggravated to a C felony when the defendant removes the victim from the state.

CROSS REFERENCES

Definition of "lawful custodian," "relative" - AS 11.41.370
 Definition of "incompetent person" - AS 11.81.900(b)
 Definition of "intentionally," "knowingly" - AS 11.81.900(a)
 Kidnapping - AS 11.41.300
 Failure to permit visitation with a minor - AS 11.51.125(a)

Original Code Provision - AS 11.15.290.

TD: I, 62-63.

Sec. 11.41.370. Definitions. In AS 11.41.300 — 11.41.370, unless the context requires otherwise,

(1) "lawful custodian" means a parent, guardian, or other person responsible by authority of law for the care, custody, or control of another;

(2) "relative" means a parent, stepparent, ancestor, descendant, sibling, uncle, or aunt, including a relative of the same degree through marriage or adoption;

(3) "restrain" means to restrict a person's movements unlawfully and without consent, so as to interfere substantially with the person's liberty by moving the person from one place to another or by confining the person either in the place where the restriction commences or in a place to which the person has been moved; a restraint is "without consent" if it is accomplished

(A) by acquiescence of the restrained person, if the restrained person is under 16 years of age or is incompetent and the restrained person's lawful cus-

todian has not acquiesced in the movement or confinement; or

(B) by force, threat, or deception. (§ 3 ch 166 SLA 1978)

CROSS REFERENCES

Definition of "law," "incompetent person," "force," "threat," "deception" - AS 11.81.900(b)

Original Code Provision - None.

Article 4.

Sexual Offenses.

Section

- 410. Sexual assault in the first degree
- 420. Sexual assault in the second degree
- 425. Sexual assault in the third degree
- 432. Defenses
- 434. Sexual abuse of a minor in the first degree
- 436. Sexual abuse of a minor in the second degree
- 438. Sexual abuse of a minor in the third degree
- 440. Sexual abuse of a minor in the fourth degree
- 445. General provisions
- 450. Incest
- 455. Unlawful exploitation of a minor
- 460. Indecent exposure
- 470. Definitions

Sec. 11.41.410. Sexual assault in the first degree. (a) An offender commits the crime of sexual assault in the first degree if

(1) the offender engages in sexual penetration with another person without consent of that person;

(2) the offender attempts to engage in sexual penetration with another person without consent of that person and causes serious physical injury to that person;

(3) the offender engages in sexual penetration with another person

(A) who the offender knows is mentally incapable; and

(B) who is in the offender's care

(i) by authority of law; or

(ii) in a facility or program that is required by law to be licensed by the state; or

(4) the offender engages in sexual penetration with a person who the offender knows is unaware that a sexual act is being committed and

(A) the offender is a health care worker; and

(B) the offense takes place during the course of professional treatment of the victim.

(b) Sexual assault in the first degree is an unclassified felony and is punishable as provided in AS 12.55. (§ 3 ch 166 SLA 1978; am § 8 ch 102 SLA 1980; am § 6 ch 143 SLA 1982; am § 10 ch 78 SLA 1983; am § 1 ch 96 SLA 1988; am § 7 ch 4 SLA 1990; am § 5 ch 79 SLA 1992; am § 3 ch 30 SLA 1996; am § 1 ch 61 SLA 1996)

COMMENTARY

From Senate Journal Supp. No. 47, at 22-23 (June 12, 1978):

**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

METRO

FRIDAY, August 15, 1997 ★

ANCHORAGE DAILY NEWS

SECTION B

Ex-officer goes to jail for molestation

By LIZ RUSKIN
Daily News reporter

Kelly Heitstuman held himself out as one of the good guys. He was a police officer, a family man, a church member. He and his wife took in foster children.

So when their 16-year-old baby sitter was having trouble at home, the Heitstumans took her in as a member of the family.

Unfortunately, District Court

Judge Stephanie Rhoades said, Kelly Heitstuman made the girl pay a price.

Heitstuman, who recently resigned from the Anchorage Police Department, pleaded no contest Thursday to one misdemeanor count of sexually molesting the girl. Rhoades sentenced Heitstuman to 30 days in jail.

In court, the 32-year-old admitted he gave the girl nude body mas-

sages and touched her breasts. He also admitted he touched her "pubic area" and her inner thigh, but he denies he also touched her genitals. He is sure he didn't, he testified.

"It's the difference between what's wrong and what's really wrong," he said.

The charge alleging genital touching, was dropped in return for his plea to the other count, which covers several months before the

girl moved out in 1996.

The law he is convicted of violating says it is illegal for someone in a position of authority to have sexual contact with a 16- or 17-year-old.

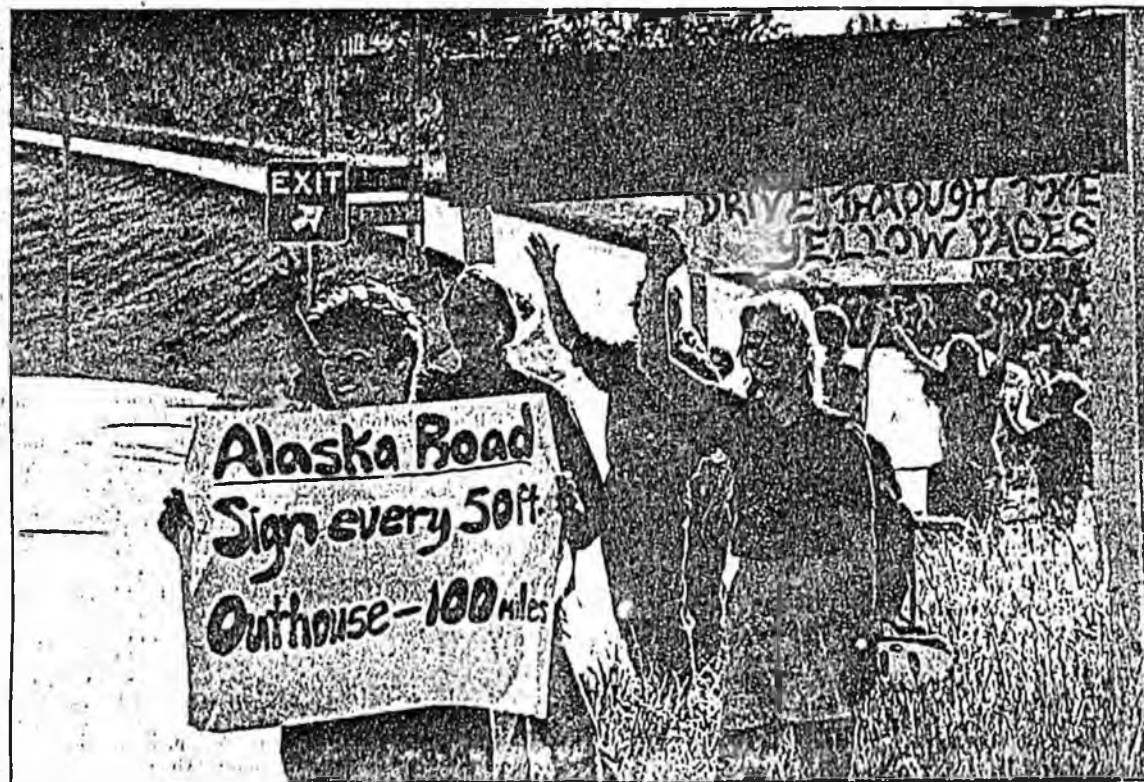
Several Anchorage police officers testified on his behalf Thursday.

"It was totally out of character," said Sgt. Ted Smith. "He has a reputation as a good, hard-working officer."

The Rev. Kenneth Doan, assistant pastor at Anchorage Baptist Temple, said Heitstuman attends his adult Sunday school class. Doan said he never questioned Heitstuman's moral character.

His good standing led the girl's mom to believe the situation was healthy for her daughter. The Heitstumans called frequently and told

Please see Page B-3, OFFICER



Sharon Cissna left tries to show Thursday's rush-hour with billboards. Behind her, Randy Carter and Barbara



ERIK HILL / Anchorage Daily News

Lost Abbey owner Bob Stevens is refusing to close his teen nightclub despite the wishes of neighbors and an order from the city to shut it down.

Lost Abbey owner defies desist order

By DANIELLE STANTON
Daily News reporter

Residents applauded the move. A number of people

ABBEY: Owner refusing to close club

OFFICER: 30-day term

Continued from Page B-1

Continued from Page B-1

Propane

A faulty propane fitting sent a man to the hospital, 47, was left standing in the Royal Mansion that fire department spokesman said. The fire department spokesman said that a tank and pool near the kitchen and turned the water heater to fire. The man was taken to the hospital at the East Annapolis hospital. He remained Thursday at the hospital. Hospital officials said he is in good condition.

Clued

A man was found on a beach southeast of Annapolis earlier this week. The man was identified as J. Fran Pryon, of Seward, Md. His address is unknown. He was found by a Civil Air Patrol crew on a 24-foot skiff. Coast guard officers were in the area about 8 p.m., but did not reach the man until a line-launcher gun to provide a landing platform for the helicopter was able to land later. No one was injured.

4 Kills

A fire, near Sand Lake, will be held Friday. Personnel will fire and may hear sirens and loud music and artillery. Training will be at 4 p.m.

Daily News staff reports

city's new curfew law.

"I'm kind of getting tired of (the city) tormenting us," Stevens said. "There's nothing going on other than the fact that we're just not obeying the curfew."

Stevens appealed the closure order last week and lost.

But the Lost Abbey isn't budging. City attorney Mary Hughes said Stevens opened his doors last weekend but didn't charge an entrance fee, protecting him from the law. The ordinance defines a teen nightclub as an establishment where an exchange of money occurs.

If he stays open, and charges admission, he could face a misdemeanor charge, with a \$1,000 fine and a year in jail.

Stevens would not say if he is charging admission or plans to. The club "will stay open as long as the dictatorship of China doesn't take over the country," he said.

Meanwhile, neighbors are ecstatic the city is trying to shut him down.

"Get them out of here," said 23-year-old Jonah ReCTOR, who lives behind the Abbey in the Campbell Creek Manor Apartments.

A street separates the Abbey from the apartment complex, where at least two tenants have moved because of the noise, resident David Owen said.

"Kids fighting, swearing, throwing things around, vandalism," Owen, 55, said. "The music got so loud sometimes even the floor vibrated."

Management of the Campbell Creek apartments installed brighter outside lights and hired a security guard to patrol its parking lots because of vandals.

Sandy Traini, head of the Campbell Creek Community Council, started investigating the club after neighbors complained. On her visits, she said she found liquor bottles strewn around the parking lot and cars crammed into any available space. But the past few months, the problems have been less frequent, she said.

"I think the teen club concept is a great idea," Traini said. "But I think we need someone who is responsible."

Stevens has tried to work with neighbors by fixing the parking problem and lengthening the hours the club is open so youths trickle out rather than gush out the door at once. He also said he's

heard complaints from only one neighbor.

Police say the club has been a source of problems since it opened in the spring of 1995. Officers have responded to the club 161 times since the beginning of last year, police spokesman Ron McGee said. Disturbances, vandalism and juvenile offenses, including violations for curfew and underage smoking and drinking, made up many of the calls.

However, Stevens said most of the calls were made by the club itself.

Police Chief Duane Udland said a lot of crime is generated there and moves elsewhere.

"A 14-year-old should not be hanging out late with people who are 19," Udland said. "It's just inappropriate. When you have that kind of mixture, you have problems."

Juvenile police detective Keith Cordell testified at the cease and desist hearing that the club is clean and the youths well-behaved.

Stevens said if the city would agree not to enforce the curfew law, then he would gladly move his business elsewhere. The curfew, he says, infringes on teenagers' rights.

the mother her daughter was doing well, that Heitstuman was helping her with homework and otherwise playing the role of father. It seemed an acceptable alternative to the tension of her own home, the mother said.

"Kelly" rescued her from that situation. He provided her with a home and a family," the mother said. "She didn't want to be a part of it. She didn't want to disrupt it."

In fact, the victim testified, she didn't intend to tell police about the abuse. After she left the home, she mentioned it at a health-care clinic, and the nurse called the Division of Family and Youth Services. A police detective then called her.

Since then, she's had trouble sleeping and she has withdrawn from her friends, she testified.

"I want him to be punished for what he did," she told the judge. "He did something wrong."

Her mother said she's seen a marked change in her daughter: She rarely leaves the house. She hides in baggy clothes and some days can't manage to comb her hair.

"He's taken away from her her essence," the mother said. "Her self-worth is gone."

Defense attorney Ray Brown argued against sending the former officer to jail, saying Heitstuman has already paid a steep price. His career is gone, his finances are in ruin and his marriage is in jeopardy, the lawyer said. Heitstuman has never done anything like this before, and interviews with former foster children confirm this, Brown said.

"I can't explain it, and neither can he," Brown said.

Judge Rhoades said Heitstuman violated the trust of the girl, her parents and the community at large. The seriousness of the crime warrants jail time, she said. She also ordered him to attend counseling and pay up to \$2,000 of the victim's counseling costs. The judge recommended he serve his time in a halfway house.

Signs rally to protest law allowing signs on private property

has run since the early 1990s. Under the program, small signs in the state-owned right-of-way area on either side of the highway direct visitors to local businesses.

The signs are 18 by 90 inches, the same size as under the new law, and are blue with white letters. They show the name of the business, an icon representing it, a directional arrow, and the distance to the business.

Businesses in rural areas, which are located within 25 miles of the highway and do at least 25 percent of their business with tourists, qualify for TODS.

"The TOD sign is nothing like a billboard," said Marvin Coggins, Green's administrative assistant. She says the Alaskans Against

Billboards campaign is misleading and irresponsible.

"A lot of people haven't actually looked at the bill," she said. "The initiative relates to billboards, and people think the law deals with billboards. But it doesn't."

"The Department of Transportation has ultimate control" over the content, location and even placement of the signs, Lindgren said. "It's not like tobacco companies are going to be renting someone's front lawn."

"We're not going to put up a lot of outdoor advertisements," agreed Bo Brownfield, deputy transportation commissioner. "This is for the mom-and-pop store down the street."

Brownfield said the state will manage the new sign law much like the existing TODS

program, including an application process, a nonrefundable \$500 fee for a 5-year permit, and a one-time charge of \$2,000 to produce and install the sign.

However, he said, the signs on private land will be hard to read. The state owns the highway right-of-way; private land along major roads is often more than 100 feet from the edge of the road.

"The sign is 18 by 90 inches. That is not very readable," Brownfield said.

His office calculated that a driver going 55 miles per hour would have three seconds to read, recognize and register the sign.

What will happen next, opponents of the law say, is that irate business owners who have shelled out big bucks for an unreadable sign will

push their legislators to allow bigger signs.

"All it takes is the stroke of a pen," Brownfield said. "It's a wrong step in the wrong direction."

It's done a lot for Debra and Dave Horne, however.

The Hornes opened their business, Day's Catch Alaska Seafood Market in Kenai, this spring. The market is located half a mile from the intersection of the Bridge Access Road and Kalifornsky Beach Road. After the law was passed, they put up a sign closer to the access road advertising their fresh halibut and salmon.

"It's something that people can actually read as they traverse the road," Debra Horne said. "Without a shadow of a doubt, the sign contributed to increased sales."

Unsafe toxin levels prompt state to halt Kachemak shellfish harvest

PSP toxin per 100 grams of edible flesh. Standards call for fewer than 80 micrograms of toxin per 100 grams of flesh.

The sample level is high, but well short of levels found near Kodiak Island, where PSP toxins are rampant. Mussel tissue from those waters reached as high as 20,000

tasz said. Kachemak oysters recently have tested safe, though they have shown levels a shade higher than normal, Ostasz said.

With some good clam tides approaching, he said the state would be taking a careful look at the PSP levels in area little-neck clams. If PSP levels

Signs of the neurotoxin poisoning begin with numbness in the face, lips and extremities, followed by staggering and difficulty speaking, resembling drunkenness. PSP can then shut down a person's diaphragm, at which point a respirator is required to breathe.

Kachemak Bay has seen

four small PSP spikes in the past 15 years, two of those in the last two summers.

Commercial growers suspect the rise in toxins is related to warm weather and a recent spate of mild tides, which reduce the tidal flushing of algae. If Kachemak waters see a rise in the toxin, it

usually is in late July or August during a particularly warm summer, said Marie Bader, a commercial shellfish farmer.

Ostasz agreed and said warm waters and nutrients washed into the saltwater by recent rains also would spur algae growth.

one Coast Guard cutter stopped the night around sundown, according to Petty Officer John McEvan. He said rescuers will resume their search this morning.

Scott Echols, owner of the La-Conte, stressed that the vicious storm downed the vessel. Though the boat was built in 1919, it had a modern motor, its wooden frame was maintained twice a year, and it

new dedicated professionals.

"As the storm came up on them, they were vigilantly fishing," Echols said. "Our prayers go out to the families of Dave and Mark. Fishing was their life, and they were good at it."



Photo by BILL ROTH Anchorage Daily News

ope Missionary Baptist Church choir, below, sings the national anthem, "Lift Every Voice and Sing," during the cere-

Month begins



Ake leaves prison, plans 'a new life'

The Associated Press

A former gynecologist convicted of raping five patients was released from prison Sunday after serving six years and seven months of a 10-year sentence.

Kenneth Ake walked out of the Hiland Mountain Correctional Center in Eagle River in the early morning darkness, handed reporters a brief statement expressing regret to his victims, but said little.

It's not clear what Ake will do now that he has been released. He lost his medical license, and on Friday Pennsylvania authorities turned down his request to move to the city of Martinsburg to be near his parents.

Ake was sentenced in 1991 to 20 years in prison with 10 years suspended. His early release reflects time off for good behavior.

He will be on parole until 2001.

Ake's statement read: "I deeply regret the harm I have caused to my victims and the community by my violation of their trust. To all those I have harmed by my past actions, I am sorry."

"I have now finished serving my time in prison during which I participated for 39 months in the sexual offender program as recommended by my judge.

"At this time I plan to start my life over and rebuild a new life."

State corrections officials have said Ake failed to complete the sexual offender program.

Fairbanks official claims city owes him \$100,000

The Associated Press

FAIRBANKS — Former Public Safety Director Mike Pulice has ended his controversial career with the city, but not before firing a shot at Fairbanks officials.

On Thursday, officials received a letter from Pulice that said the city owes him \$100,000. He promised to sue if not paid.

Why Pulice is asking for the money isn't clear. City Attorney Herbert Kuss told the Fairbanks Daily News-Mirror that Pulice