

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 00/2

9238 HOUSE JUDICIARY

5) "Nowhere does the Bible repudiate capital punishment for premeditated murder; not only is the death penalty for deliberate killing of a fellow human being permitted, but it is approved and encouraged, and for any government that attaches at least as much value to the life of an innocent victim as to a deliberate murderer, it is ethically imperative." Prof. Carl F. H. Henry, *Twilight Of A Great Civilization*, 1988.

6) "It is because humans are created in the image of God that capital punishment for premeditated murder was a perpetual obligation. The full range of biblical data weighs in its favor. This is the one crime in the Bible for which no restitution was possible (Numbers 35:31,33). The Noahic covenant recorded in Genesis 9 antedates Israel and the Mosaic code; it transcends Old Testament Law, per se, and mirrors ethical legislation that is binding for all cultures and eras. The sanctity of human life is rooted in the universal creation ethic and thus retains its force in society. The Christian community is called upon to articulate standards of biblical justice, even when this may be unpopular. Capital justice is part of that non-negotiable standard. Society should execute capital offenders to balance the scales of moral judgement." From "Capital Punishment: A Personal Statement", by Charles W. Colson., a former opponent, who is the Founder of Prison Fellowship, the largest Christian ministry serving incarcerated prisoners. Ph. 703-478-0100.

7) St. Thomas Aquinas finds all biblical interpretations against executions "frivolous", citing Exodus 22:18, "wrongdoers thou shalt not suffer to live". Unequivocally, he states, "The civil rulers execute, justly and sinlessly, pestiferous men in order to protect the peace of the state." (*Summa Contra Gentiles*, III, 146.)

8) "God. Himself, instituted the death penalty(Genesis 9:6) and Christ regarded capital punishment as a just penalty for murder(Matthew 26:52). God gave to government the legitimate authority to use capital punishment to restrain murder and to punish murderers. Not to inflict the death penalty is a flagrant disregard for God's divine Law which recognizes the dignity of human life as a product of God's creation. Life is sacred, and that is why God instituted the death penalty. Consequently, whoever takes innocent human life forfeits his own right to live." Protestant scholar Rev. Reuben Hahn (Mt. Prospect, Ill.), *Human Events*, 3/2/85.

9) "The fact that the evil, as long as they live, can be corrected from their errors does not prohibit the fact that they may be justly executed, for the danger which threatens from their way of life is greater and more certain than the good which may be expected from their improvement. They also have at that critical point of death the opportunity to be converted to God through repentance. And if they are so stubborn that even at the point of death their heart does not draw back from evil, it is possible to make a highly probable judgement that they would never come away from evil to the right use of their powers." St. Thomas Aquinas, *Summa Contra Gentiles*, Book III, 146.

10) The movie *Dead Man Walking* reveals a perfect example of how just punishment and

redemption can work together. Had rapist/murderer Matthew Poncelet not been properly sentenced to death by the civil authority, he would not have met Sister Prejean, he would not have received spiritual instruction, he would not have taken responsibility for his crimes and he would not have reconciled with God. Had Poncelet never been caught or had he only been given a prison sentence, his character makes it VERY clear that those elements would not have come together. Indeed, for the entire film and up until those last moments, prior to his execution, Poncelet was not fully truthful with Sister Prejean. His lying and manipulative nature was fully exposed at that crucial time. It was not at all surprising, then, that it was just prior to his execution that all of the spiritual elements may have come together for his salvation. It was now, or never. Truly, just as St. Aquinas predicted (D.9.), it was his pending execution which finally led to his repentance. For Christians, the most crucial concerns of *Dead Man Walking* must be and are redemption and eternal salvation. And, for that reason, it may well be, for Christians, the most important pro-death penalty movie ever made.

We cannot know if the fictitious Poncelet, or the two real murderers from the book, really did repent and receive salvation. But, we do know that St. Thomas Aquinas advises us that such murderers should not be given the benefit of the doubt. We should err on the side of caution and not give murderers the opportunity to harm again. Indeed, as Dr. W.H. Baker confirms in the excellent *On Capital Punishment* (Moody Press, 1985), biblical text finds that it is a violation of God's mandate not to execute premeditated murderers - and nowhere does the text contradict this finding.

11) In his 1995 encyclical, *The Gospel of Life (Evangelium Vitae)*, Pope John Paul II finds that the only time executions can be justified is when it is required "to defend society" and that such instances are "very rare, if not practically nonexistent". The Pope is in error. Such instances are neither non-existent nor rare. In this context, "to defend society" means that the execution of the murderer must save future lives. In other words, both the incapacitation (execution) of that specific murderer and the deterrent effect on potential future murderers must be shown "to defend society". It is already well known that murderers murder again, often time and time again - in prison, after escape, after release and, of course, after being caught, but not incarcerated. Unequivocally, incapacitation saves lives (see B. 1-4, 7, & 11). Individual deterrence (as opposed to general, or systemic, deterrence) is confirmed and cannot be contradicted (see B. 8-10 & 12-17). Therefore, executing murderers does "defend society". Furthermore, although the general, or systemic, deterrent effect is challenged, we must choose to execute because of the requirement to save innocent life. (B. 10). This encyclical is curious in additional areas, as well. Overwhelmingly, God mandates capital punishment for premeditated murder, not as a deterrent, but as the required expiation for the sin of murder. Two thousand years of tradition and instruction by the Catholic Church supports that interpretation. Additionally, Catholic biblical interpretation, tradition and natural law all seem to concur on this point, generally, and specifically through the writings of Saint Thomas Aquinas. Although Romans 13:4 and some respected Catholic writings reveal the deterrence consideration, such

references pale in comparison to the mandate that execution is the required punishment for murder, regardless of any consideration "to defend society".

12) Christians who speak out against capital punishment in deserving cases "tend to subordinate the justice of God to the love of God." It is established that Peter, by cutting off Malchus's ear, was most likely trying to kill the soldier (John 18:10), prompting Christ's statement that those who kill by the sword shall die by the sword (Matthew 26:51-52). This implicitly recognizes the government's right to exercise the death penalty. Dr. Carl Henry, Christianity Today, 8/4/95. See Rev. 13:10 (ANS).

13) "When it is a question of the execution of a man condemned to death it is then reserved to the public power to deprive the condemned of the benefit of life, in expiation of his fault, when already, by his fault, he has dispossessed himself of the right to live." Pope Pius XII.

14) Some speculate that God's mandate for capital punishment is weak, because the requirement for two witnesses in such cases (Numbers 35:30; Deuteronomy 17:6) drastically reduces the application of that sanction. Such speculation is unwarranted. By wrongly isolating the Hebrew *ĕd*, "witness", from its broad biblical context, some interpreters have falsely concluded that two or more "eye-witnesses" are required in capital cases and in all criminal cases subject to court judgment (Deuteronomy 19:5). Did God want nearly all criminals, including murderers, to get off, scot-free, if "... (they) had not taken the prudent measure of committing (their) crime where two people did not happen to be watching him." The biblical record rejects any such absurd conclusion.

The word *ĕd*, "witness", has broad meaning, including, anyone with (1) "...pertinent knowledge concerning the crime, even though he had not actually seen it." (Leviticus 5:1), such as character witnesses, witnesses who had overheard confessions, etc.; (2) physical evidence can also bear witness, also *ĕd* (Exodus 22:13), such as bloody clothing, murder weapon, etc.; (3) written documents may serve as evidence and witness (*ĕd* or *ĕdah*, Joshua 25:25-27), such as a confession, documents showing motive or implication, etc.; (4) monuments and memorial stones, such as *gal-ĕd* in Genesis 31:46-49, can also bear witness. Indeed, "there is no contravention of biblical principles in allowing such testimony, even though only one actual witness may be found, or none at all." There is no biblical requirement for two, or any, "eye-witnesses" in criminal cases. (Prof. Gleason L. Archer, *Encyclopedia of Biblical Difficulties*, Zondervan Publishing, 143-145, 1982, also see the exceptional writings on John 8:11, 371-373, therein.) Indeed, according to actual biblical usage, the witness and evidence requirements in capital cases in the U.S. meet or exceed all biblical standards.

15) Paul, in his hearing before Festus, states that "if then I am a wrongdoer, and have committed anything worthy of death, I do not refuse to die." Acts 25:11. "Very clearly this constitutes an acknowledgment on the part of the inspired apostle that the state continued to have the power of life and death in the administration of justice, just as it did from the days

of Noah (Genesis 9:6)â. *ibid*, D.14., p. 342.

16) "If you do what is evil, be afraid; for [the civil government] does not bear the sword for nothing; for it is the minister of God, an avenger who brings wrath upon those who practice evil." Romans 13:4." God has given the state the power of life and death over its subjects in order to maintain order.â Dr. Charles Ryrie, *The Ryrie Study Bible* (NAS), 1978. âSince the word sword (*machaira*) has occurred earlier in the letter to indicate death (Romans 8:35) and since it was used of execution (Acts 12:2; Revelation 13:10), it seems clear that Paul means it here as a symbol of capital punishment.â Stott, John, *ROMANS*, InterVarsity Press, 342, 1994.

17) It is not uncommon for persons of faith to create a god in their own image, to give to that god their values, instead of accepting those values which are inherent to the deity. For example, celebrated opponent Sister Helen Prejean (*Dead Man Walking*) states, in reference to the death penalty, that "*I* couldnât worship a god who is less compassionate than *I* am." (*Progressive*, 1/96; bold "*I*", JFA). She has, thereby, established her standard of compassion as the basis for Godâs being deserving of her devotion. If Godâs level of compassion does not rise to the level of her own, God couldnât receive her worship. Director Tim Robbins (*Death Man Walking*) follows that same path: â(I) donât believe in that kind of (g)od (that would support capital punishment and, therefore, would be the kind of god who tortures people into their redemption).â (*âOpposing The Death Penaltyâ*, AMERICA, 11/9/96, p 12). Robbins, hereby, establishes his standard for his godâs deserving of his belief. Godâs standards do not seem to be relevant. His sophomoric comparison of capital punishment and torture is typical of the ignorance (dishonesty?) in this debate and such comments reflect no biblical relevancy. Perhaps they should review Matthew 5:17-22 and 15:1-9. Be cautious, for as the ancient rabbis warned, "Do not seek to be more righteous than your creator." (*Ecclesiastes Rabbah* 7.33)

18) "The just use of (executions), far from involving the crime of murder, is an act of paramount obedience to this (Fifth/Sixth) Commandment which prohibits murder." Pope (and Saint) Pius V, "The Roman Catechism of the Council of Trent" (1566).

19) âYou have heard the ancients were told, **YOU SHALL NOT COMMIT MURDER**â and **Whoever commits murder shall be liable to the court**. But I say to you that everyone who is angry with his brother shall be guilty before the court; and whoever shall say to his brother, **Raca**, shall be guilty before the supreme court and whoever shall say, **You fool**, shall be guilty enough to go into fiery hell.â Jesus, Matthew 5:17-22. Should any explanation be necessary, Jesus is saying that even as execution is the required punishment for murderers, as per the Old Testament, He tells us that those who speak ill of others and have hatred in their heart shall suffer in hell. Not only does Jesus never speak out against the civil authorities just use of execution for murder, He prescribes a much more serious, eternal punishment for those who hate and speak ill of others. And what price does God exact for any and all sin? Death. (Romans 5:12-14)

20) It is abundantly clear that the Bible depicts murder as a capital crime for which death is considered the appropriate punishment, and one is hard pressed to find a biblical proof text in either the Hebrew Testament or the New Testament which unequivocally refutes this. Even Jesus' admonition "Let him without sin cast the first stone," when He was asked the appropriate punishment for an adulteress (John 8:7) - the Mosaic Law prescribed death - should be read in its proper context. This passage is an "entrapment" story, which sought to show Jesus' wisdom in besting His adversaries. It is not an ethical pronouncement about capital punishment. Sister Helen Prejean, *Dead Man Walking*. From here, the sister states that "... more and more I find myself steering away from such futile discussions (of Biblical text). Instead, I try to articulate what I personally believe..." As the long term Chairperson of the National Coalition to Abolish the Death Penalty, the sister has never shied away from any argument, futile or otherwise, which opposed the death penalty. She has abandoned Biblical text for only one reason: the text conflicts with her personal beliefs. It is common for persons to take biblical text out of context and to, thereby, pervert its meaning. Indeed, Sister Prejean rightly cautions: "Many people sift through the Scriptures and select truth according to their own templates." (*Progressive*, 1/96). Sadly, Sister Prejean does even worse. The sister now uses that very same biblical text "Let the one who is without sin cast the first stone" as proof of Jesus' unequivocal rejection of capital punishment as "revenge and unholy retribution"! How easily she changes her interpretation of biblical text! (see Sister Prejean's 12/12/96 fundraising letter on behalf of the *Saga Of Shame* book project for Quixote Center/Equal Justice USA).

21) Pontius Pilate said to Jesus, "You do not speak to me? Do You not know that I have authority to release You, and I have authority to crucify You?" Jesus answered, "You would have no authority over Me, unless it had been given you from above." (John 19:10-11). "Jesus reminds Pilate that the implementation of the death penalty is a divinely entrusted responsibility that is to be justly implemented." Prof. Carl F.H. Henry, 45th Annual N.A.E. Convention, "Capital Punishment and The Bible". Jesus confirms that the civil authority has the lawful right to execute Jesus, and others, and this right has been given to that authority by God.

22) Some churches are now espousing a pro-life continuum, a philosophy whereby the taking of any life, under any circumstances, must be condemned. This belief equates the taking of lives through war, self defense, suicide, abortion and the death penalty. This is an interesting social philosophy which directly conflicts with the Word of the God. Catholic biblical scholar Father James Reilly, S.J. of Marquette University argues that it is not a contradiction for religious people to oppose abortion and...to support capital punishment. "Abortion is absolutely prohibited. It is always evil. No one can ever abort a "guilty" baby, so the act can never be right. This is not the case, however, with either capital punishment or a just and defensive war. It is only murder, along with its subdivisions suicide and abortion, which God's law absolutely prohibits. The upshot of all this is that trying to put abortion, capital punishment and war in one package makes chaos of Catholic morals and can lead one to misinterpret God's Law..." (Haven Bradford Gow, "Religious Views Support The Death Penalty", *The Death Penalty: Opposing Viewpoints*, Greenhaven Press,

1986).

23) "If a man is a danger to the community, threatening it with disintegration by some wrongdoing of his, then his execution for the healing and preservation of the common good is to be commended. Only the public authority, not private persons, may licitly execute malefactors by public judgement. Men shall be sentenced to death for crimes of irreparable harm or which are particularly perverted." St. Thomas Aquinas, *Summa Theologica*, 11; 65-2; 66-6.

24) "If by arming the magistrate, the Lord has also committed him the use of the sword, then, whenever he punishes the guilty by death, he is obeying God's commands by exercising His vengeance. Those, therefore, who consider it is wrong to shed the blood of the guilty are contending against God." John Calvin, "The Epistle of Paul the Apostle to the Romans and to the Thessalonians", in *Calvin's Commentaries*, trans. Ross McKenzie (Grand Rapids: Eerdmans, 1960) p.283.

25) The leadership councils of some Christian denominations in the U.S. have released statements in opposition to the death penalty. These statements reflect social positions that have questionable biblical foundation and, often, they reflect positions which selectively only discuss the mercy of God and improperly avoid the justice of God. For example, some believe that it would be hypocritical for Christians to support capital punishment, because that would suggest that some people's sins are not forgivable. They argue that capital punishment conflicts with Jesus's teachings - that, if we are not willing to forgive, then we place ourselves outside of God's forgiveness. Such pronouncements are hardly convincing and are biblically inaccurate. All death row inmates, no matter how vile and numerous their misdeeds, are subject to the forgiveness of men and of God and, more importantly, they are subject to redemption and eternal salvation. Indeed, God compels us, individually, to forgive those who have harmed us. This, in no way, conflicts with the civil government's imposition of the death penalty in deserving cases. Social positions cannot and do not replace biblical instruction.

26) "While the thief on the cross found pardon in the sight of God - 'Today you will be with Me in Paradise' - that pardon did not extend to eliminating the consequences of his crime - 'We are being justly punished, for we are receiving what we deserve for our deeds.' (Luke 23:39-43)". Neither God nor Jesus nor the Prophets nor the Apostles ever spoke out against the civil authorities use of executions in deserving cases - not even at the very time of Jesus's own execution when He pardoned the sins of the thief, who was being crucified along side Him. Indeed, quite the opposite. Their biblical support for capital punishment is consistent and overwhelming. Furthermore, Jesus never confuses the requirements of civil justice with those of either eternal justice or personal relations. Charles Colson accurately recognizes this fact in stating that "it leads to a perversion of legal justice to confuse the sphere of private relations with that of civil law." All quotations from Charles Colson's "Capital Punishment: A Personal Statement". See D.6. Continuing this thread, Protestant scholar and journalist Rev. G. Aiken Taylor states, "Most

Christians tend to confuse the Christian personal ethic with the requirements of social order. In other words, we tend to apply what the Bible teaches us about how we - personally - should behave toward our neighbors with what the Bible teaches about how to preserve order in society. Capital punishment is specifically enjoined in the Bible. "Whoever sheddeth man's blood, by man shall his blood be shed" (Genesis 9:6). This command is fully agreeable to the Sixth Commandment, "Thou shalt not kill" (Exodus 20:13), because the two appear in the same context. Exactly 25 verses after saying "Thou shalt not kill", the Law says, "He that smiteth a man so that he may die, shall be surely put to death" (Exodus 21:12). See also Leviticus 24:17 and Numbers 35:30-31. (Haven Bradford Gow, "Religious Views Support the Death Penalty", *The Death Penalty: Opposing Viewpoints*, Greenhaven Press, 1986). Biblical teachings regarding personal conduct, civil government and eternal judgement and relations are often taken out of context, thereby replacing one duty or instruction improperly with another.

27) God, through the power and justice of the Holy Spirit, executed both Ananias and his wife, Saphira. Their crime? Lying to the Holy Spirit - to God - through Peter. Acts 5:1-11. By executing two such devoted Christians for lying to Him, does the Holy Spirit show confirmation of His support for His divinely instituted civil punishment of execution for premeditated murder or does it show His rejection of capital punishment?

28) There are two passages in Luke which speak directly to Jesus' position on capital punishment. In 20:14-16, Jesus states: "He will come and kill those tenants and give the vineyard to others". Jesus was speaking to the proper punishment for murder. In 19:27, "Christ pronounced this judgement on those who rebelled against their king: 'But these enemies of mine, who did not want me to reign over them, bring them here, and slay them in my presence'" (NASB). Thus, it is very clear that neither Christ nor His apostles intended to abrogate the God-given responsibility of the government (under Old Testament law) to protect its citizens and enforce justice by capital punishment. *ibid*, D.14., pg. 342. In the 19:27 parable "their king" is Jesus.

29) The Bible clearly asserts, from beginning to end, without any reservation, that righteous judgement includes the execution of a murderer. In the case of murder, the biblical materials offer the clearest and most sustained justification for the death penalty. The purpose of capital punishment is justice - deterrence is irrelevant. A person who takes a human life, without proper sanction, forfeits any right to life - no alternative is allowed and the community must not be swayed by values to the contrary.

Listen carefully to the Bible as the Word of God rather than seek to improve upon it by means of human values. However meritorious mercy may be, however abundantly evident it may be in God's own dealings, murder was an offense for which mercy and pity were not allowed and for which monetary compensation was strictly forbidden. The sentence is set by God's torah and a judge cannot have discretion in this matter. Murder is something utterly on its own, nothing can be compared to it.

It should not be overlooked, in seeking to discover the mind of Jesus Christ on the issue of murder and its punishments, that He goes beyond torah to the statement that even verbal abuse makes one deserving of the hell of fire. Far from releasing believers from prior law, Jesus was a hard liner who made things even tougher, stating that He has come not to abolish the law and the prophets... but to fulfill them, offering even stronger interpretations than in the original (Matthew 5:17-22). Indeed, Jesus admonishes the Pharisees not to misuse torah for their own ends, but to honor God and torah. And of all the text in the Bible, which one does Jesus select to emphasize that crucial point? HE WHO SPEAKS EVIL OF FATHER OR MOTHER, LET HIM BE PUT TO DEATH. (Matthew 15:1-9).

All interpretations, contrary to the biblical support of capital punishment, are false. Interpreters ought to listen to the Bible's own agenda, rather than to squeeze from it implications for their own agenda. As the ancient rabbis taught, "Do not seek to be more righteous than your Creator." (Ecclesiastes Rabbah 7.33.). Synopsis of Professor Lloyd R. Bailey's book Capital Punishment: What the Bible Says, Abingdon Press, 1987. This is the definitive work on this subject. It is mandatory reading for those who wish to undertake a thorough and accurate look at this often misused and misunderstood area of concern and debate.

E. THE COST OF LIFE WITHOUT PAROLE VS THE DEATH PENALTY

Many opponents present, as fact, that the cost of the death penalty is so expensive (at least \$2 million per case?), that we must choose life without parole ("LWOP") at a cost of \$1 million for 50 years. Predictably, these pronouncements may be entirely false. JFA estimates that LWOP cases will cost \$1.2 million - \$3.6 million more than equivalent death penalty cases.

Cost of Life Without Parole: Cases Equivalent To Death Penalty Cases		Cost of Death Penalty Cases	
1. \$34,200/year (1) for 50 years (2), at a 2% (3) annual cost increase, plus \$75,000 (4) for trial & appeals	= \$3.01 million	\$60,000/year (1) for 6 years (5), at a 2% (3) annual cost increase, plus \$1.5 million (4) for trial & appeals	= \$1.88 million
2. Same, except 3% (3)	= \$4.04 million	Same, except 3% (3)	= \$1.89 million
3. Same, except 4% (3)	= \$5.53 million	Same, except 4% (3)	= \$1.9 million

There is no question that the up front costs of the death penalty are significantly higher than the equivalent LWOP cases. There also appears to be no question that, over time, equivalent LWOP cases are much more expensive - from \$1.2 to \$3.6 million - than death penalty cases.

(1) We believe this number to be conservative, if TIME Magazine's (2/7/94) research is accurate. TIME found that, nationwide, the average cell cost is \$24,000/yr. and the cost for maximum security cells is \$75,000/yr. (as of 12/95). Opponents claim that LWOP should replace the DP. Therefore, any cost calculations should be based specifically on cell costs for criminals who have committed the exact same category of offense - in other words, cost comparisons are valid only if you compare the costs of DP equivalent LWOP cases to the cost of DP cases. The \$34,200/yr. cell cost assumes that only 20% of DP equivalent LWOP cases would be in maximum security cost cells and that 80% of DP equivalent LWOP cases would be in average cost cells. A very conservative estimate. The \$60,000/yr., for those on death row, assumes that such cells will average a cost equal to 80% of the \$75,000/yr. for the most expensive maximum security cells. Quite possibly a very high estimate. For equivalent crimes we are calculating a 75% greater cell cost for the DP than for LWOP. Even so, equivalent LWOP cases appear to be significantly more expensive than their DP counterparts. For years, opponents have improperly compared the cost of all LWOP cases to DP cases, when only equivalent cases are relevant.

(2) Justice Department research and the U.S. Vital Statistics Abstract, 1994.

(3) Annual cost increases are based upon: 1) historical increases in prison costs, including judicial decisions regarding prison conditions, and the national inflation rate; 2) medical costs, including the immense cost of geriatric care, associated with real LWOP sentences; 3) injury or death to the inmate by violence; 4) injury or death to others caused by the inmate (3 and 4 anticipate no DP and that prisoners, not fearing additional punishment, other than loss of privileges, may increase the likelihood of violence. One could make the same assumptions regarding those on death row. The difference is that death row inmates will average 6 years incarceration vs. 50 years projected for LWOP); 5) the risk and the perceived risk of escape; and 6) the justifiable lack of confidence by the populace in our legislators, governors, parole boards and judges, i.e. a violent inmate will be released upon society.

(4) \$75,000 for trial and appeals cost, for DP equivalent LWOP cases, assumes that the DP is not an option. We have anticipated that DP cases will cost twenty times more, on average, or \$1.5 million. Possibly a high estimate. Meaning, the DP will have twenty times the investigation cost, the defense and prosecution cost, including voire dire and court time and guilt/innocence stage and sentencing stage and appellate review time and cost than DP equivalent LWOP cases.

(5) 6 years on death row, prior to execution, reflects the new habeas corpus reform laws, at both the state and federal levels. Some anti-death penalty groups believe that 6 years may be generous, speculating that the time may be shortened to an average of 4 years, or even less. If so, then DP cases would cost even that much less than DP equivalent LWOP cases. However, the average time on death row, for those executed from 1973-1994, was 8 years (Capital Punishment 1994, BJS, 1995). Therefore, 6 years seems more likely. Even using the 8 year average, DP equivalent LWOP cases are still \$1 million more expensive than their DP counterparts (\$2 million @ 2% annual increase).

One of the USA's largest death rows is in Texas, with 442 inmates, of which 229, or 52%, have been on death row over 6 years - 44, or 10%, have been on for over 15 years, 8 for over 20 years. 60 inmates, nationwide, have been on death row over 18 years. (as of 12/96).

F. DEATH PENALTY PROCEDURES

There are at least 24 procedures necessary in reaching a death sentence. They are: (1) The crime must be one listed as a capital crime in the penal code; (2) a suspect must be identified and arrested; (3) Beginning with the Bill of Rights, the Miranda warnings and the exclusionary rules, U.S. criminal defendants and those convicted have, by far, the most extensive protections ever devised and implemented; (4) in Harris County (Houston), Texas a panel of district attorneys determines if the case merits the death penalty as prescribed by the Penal Code (See 12-19); (5) a grand jury must indict the suspect for capital murder; (6) the suspect is presumed innocent; (7) the prosecution must prove to the judge that the evidence, upon which the prosecution will rely, is admissible; (8) the defendant is assigned two attorneys. County funds are provided to defense counsel for investigation and trial; (9) it takes 3-12 weeks to select a jury; (10) trial is conducted; (11) burden of proof is on the state; (12) all 12 jury members must find for guilt, beyond a reasonable doubt. In most cases, the jury knows nothing of the defendant's past, at this stage. Then, the punishment phase begins; (13) the prosecution presents additional damning evidence against the murderer, i.e., other crimes, victims, victims testimony, police reports, etc; (14) In order to find for death, the issues to be resolved by the jury are {a}(14) did the defendant not only act willfully in causing the death, but act deliberately, as well, {b}(15) does the evidence show, beyond a reasonable doubt, that there is a likelihood that the defendant will be dangerous in the future, {c}(16) if there was provocation on the part of the victim, were the defendant's actions unreasonable in response to the provocations and {d}(17) is there something about the defendant that diminishes moral responsibility or in some way mitigates against the imposition of death for the defendant in this case, whereby, (18) the defense presents all mitigating circumstances for the murderers actions, i.e., family problems, substance abuse, age, mental disability, parental abuse, poverty, etc. Witnesses are presented to speak on behalf of the defendant; (19) the jury must take into consideration those mitigating circumstances (Penry decision) and, if only 1 juror believes that the perpetrator deserves leniency because of any mitigating circumstances, then the jury cannot impose the death penalty; and (20) when the death sentence is imposed, the perpetrator

receives an automatic appeal. (21) the death row inmate is provided an attorney, or attorneys, to handle the direct appeal, at county expense; (22) the state pays attorneys for the inmate's habeas corpus appeals; (23) death row inmates may be granted a hearing, in both state and federal court, to present post conviction claims of innocence. The burden of proof for these claims of innocence mirrors that used by the Federal courts; and (24) Convictions and sentences are subject to pardon or sentence reduction through the executive branch of government, at both the state level (Governor) and federal level (President).

To punish with death, each one of the 12 jurors must agree with the prosecution in each of five specific areas (12, 14, (a)14, (b)15, (c)16, and (d)17 (with 18 & 19). A death sentence requires that the prosecution must prevail in 60 out of those 60 considerations, or 100%. To avoid death, the defendant must prevail in 1 out of those 60 considerations, or 1.67%. If convicted and sentenced to death, the inmate may then begin an appeals process that could extend through 23 years, 60 appeals and over 200 individual judicial and executive reviews. For the 56 executed in 1995, the average time on death row was 11 years, 2 months - a new record of longevity, surpassing the old record of 10 years, 2 months, set in 1994.(Capital Punishment 1994 & 1995, BJS 1995 & 1996). Could a new record of over 12 years be set in 1996 and 1997? Easily.

HABEAS CORPUS - Opponents claim that with the new federal guidelines for appeals in capital cases, that nothing is left to protect the rights of the death row inmate. Predictably, such hysteria is unwarranted and untrue. The new federal appeals law, which affects the writ of habeas corpus, was upheld unanimously by the U.S. Supreme Court in 1996. This law established, nationally, higher minimum standards for defense counsel in capital cases and requires said counsel for all indigent capital defendants. Furthermore, with these new federal standards, there are still at least 16 levels of post conviction review available to the death row inmate; 5 state and 11 federal appeals, comprised of 5 direct appeals, one at the state level and four at the federal level; 9 habeas corpus appeals, three at the state level and six at the federal level; 2 of those habeas appeals are for compelling post conviction claims of innocence, which are subject to a formal hearing, one at the state level and one at the federal level; and the 15th and 16th levels of appeal provide that the inmate's claims are subject to review for executive clemency, at either the state or federal level, and sometimes both. Similar appellate issues are often heard at every appellate level. There is no limit to the number of appellate issues which the inmate may raise. Generally, prosecutors and victim survivors have no right to appeal. Although this section deals specifically with the Texas Death Penalty, the procedures are very similar in all of the death penalty states and at the federal and military levels.

Many seem to be unaware of the true meaning of the habeas corpus process. They may not know that the intent of the "Great Writ", established in pre-Magna Carta England, is to quickly facilitate the release of the innocent or those otherwise wrongfully held or convicted - a process that will finally be honored with these reforms. This is a very positive development, except for the guilty and for those who wish to abuse the habeas corpus process by delaying justice with frivolous, repetitive and prolonged appeals. It is a bitter irony that it was just such intentional delays of justice that the "Great Writ" was created to

abolish. It was just such abuses that caused many of the states and the federal government to enact new habeas corpus reforms. Indeed, it was opponents of the death penalty who finally guaranteed passage of these long delayed reforms. Opponents had begun to challenge the long stays on death row as unconstitutional, claiming that such delays were, by themselves, a cruel and unusual punishment, a violation of the eighth amendment. Although all such claims were rejected by U.S. courts - there was no evidence that death row inmates had made efforts to hasten their executions - such claims did provide the final push necessary to finally pass these reforms through the U.S. Congress, thus respecting the claims of opponents and inmates through legislation.

For those who find themselves hysterical over these habeas corpus reform efforts, who believe that speeding up the appeals process will threaten the lives of those convicted and innocent, please contemplate the following question: What innocent or otherwise improperly convicted inmate would wish to linger a bit longer on death row as their attorney, snail-like, labored to prolong their wrongful stay on death row with a series of delayed and frivolous appeals?

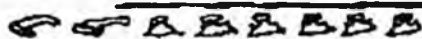
The American Death Penalty is, overwhelmingly, the least arbitrary and the least capricious of all the world's legal sanctions for violent crime.

JUSTICE FOR ALL is a criminal justice reform organization dedicated to protecting the civil and human rights of all citizens from violent crime. Through education and legislation we shall take all necessary measures to reduce the human suffering caused by violent criminals and a failed criminal justice system. Founded in Houston, Texas in 1993, JFA has membership throughout the U.S.A. Please inquire about membership and/or starting a chapter in your area.

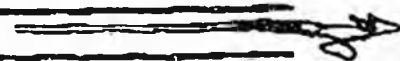
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KAWERAK, INC.



P.O. BOX 948 • NOME, ALASKA 99762



TELEPHONE (907) 443-5231 • FAX: (907) 443-3708

SERVING THE
VILLAGES OF:

- BALVIG MISSION
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- ELM
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- SHAKTOOLIK
- ESKIMAWARD
- SOLDMON
- ST. MICHAEL
- TELLER
- UTKALAGLEET
- WALSI
- WHITE MOUNTAIN

March 20, 1997

Alaskans AGAINST the Death Penalty
P.O. Box 202296
Anchorage, AK 99520-2296

To Whom This May Concern:

I am writing on behalf of the Kawerak Board to express our opposition to Senator Taylor's Senate Bill 60 that calls for an advisory vote to return the death penalty to Alaska. We firmly believe that should the death penalty be reinstated Alaska Native and other minorities (as has been the case in the past) will bear the brunt of the death penalty.

I have included a copy of Kawerak Board Resolution 94-09 expressing our opposition to the death penalty. We urge the legislature to vote against this bill.

Sincerely,

KAWERAK INCORPORATED

Loretta Bullard
President

cc: Governor Tony Knowles
Lt. Governor Fran Ulmer
Senator Robin Taylor
Senator Lyman Hoffman
Senator Al Adams
Representative Richard Foster
Representative Ivan M. Ivan

KAWERAK INCORPORATED

Resolution 94-09

OPPOSITION TO REINSTATEMENT OF THE DEATH PENALTY IN ALASKA

WHEREAS, the Kawerak, Inc. is concerned with equitable treatment of Alaska Natives within the criminal justice system; and

WHEREAS, Alaska Natives account for only 13.5% of the state's prison-age population, yet 32% of the jail population is comprised of Alaska Natives; and

WHEREAS, there is significant evidence of racial bias toward economically disadvantaged members of ethnic minorities in administration of the death penalty in other jurisdictions; and

WHEREAS, there is substantial concern among the Native community, and no evidence to the contrary, that in all likelihood the Alaska system of criminal jurisprudence is not capable of avoiding racial bias in the trial process; and

WHEREAS, the majority of Alaska Natives and people residing in rural areas of the state do not have the means to acquire adequate legal defense counsel when charged with serious crimes; and

WHEREAS, establishing a death penalty law and implementing it will cost millions of dollars and thereby deprive Alaska Natives and their communities of critical resources for service programs that focus on crime prevention; and

WHEREAS, Alaska Native tribes and organizations have historically opposed the death penalty as demonstrated by past actions to defeat federal death penalty legislation;

NOW THEREFORE BE IT RESOLVED, that Kawerak, Inc. is opposed to reinstatement of the death penalty in Alaska; and

BE IT FURTHER RESOLVED, that Kawerak, Inc. urges rural and urban legislators alike to oppose any effort to reinstate a death penalty in Alaska.

Barrie Blaine
Chairman of the Board

4/2/94
Date

Lauri E. [unclear]
Board Secretary

4-2-94
Date

The foregoing resolution was adopted at a duly convened meeting of the Kawerak Board of Directors, a quorum being present this 2nd day of April, 1994.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on SB 60 , dated 5-7-97
 bill/subject:

I am in favor of passing SB 60.

Let the citizens of Alaska decide the issue of Capital Punishment. These are the people you are supposed to represent. One of the common arguments against Capital Punishment is the high cost of the system. These high costs accrue because of the unlimited number of frivolous appeals, over several years, that are allowed. This can be corrected by the Judicial Branch, placing a limit on appeals by convicted murderers.

I agree completely with the Sponsor Statement for SB 60.

Signed: Christine J. Hopkins
 Testifier

Representing (Optional)

HC 1 Box 1478 Soldotna, Alaska 99669

Address

(907) 262 1871

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on SB 60 . dated 5-7-97
 bill/subject

I am in favor of passing SB 60.

Let the citizens of Alaska decide the issue of Capital Punishment. These are the people you are supposed to represent. One of the common arguments against Capital Punishment is the high cost of the system. These high costs accrue because of the unlimited number of frivolous appeals, over several years, that are allowed. This can be corrected by the Judicial Branch, placing a limit on appeals by convicted murderers.

I agree completely with the Sponsor Statement for SB 60.

Signed: Warren C. Hollibaugh
 Testifier

Self
 Representing (Optional)

HC 1 Box 1478, Soodna, Alaska 99669
 Address

(907) 262 1871
 Phone No.



Alaska Native Brotherhood
Camp No. 2, Inc.

Joe Green, Chairman
Judiciary Committee
House of Representatives
State Capitol, MS 3101
Juneau, AK 99801

May 6, 1997

Dear Representatives,

The Juneau Camp 2 of the Alaska Native Brotherhood is opposed to House Bill No.131 or Senate Bill No. 60, " An Act for an advisory vote on the issue of Capitol Punishment," otherwise known as the Death Penalty bill. The ANB represents Alaska Natives and the disadvantaged.

It is our opinion that it will be the Alaska Native that will be the victim of the death sentence to demonstrate that "we're tough on crime," or some other reason that the majority society of Alaska has. The history of Alaska, for the years 1867to 1949, vividly shows that more often than not, it was Alaska Natives that were put to death. If history is any guide, in the event that the Death Penalty is put into effect, it will be the Alaska Native that will become the statistic.

The Alaska Population Overview that is attached shows that Alaska Native voter is out numbered by any approximate ratio of 6 to 1. Which means that an issue such as an Advisory Vote an Capital Punishment, would likely pass.

The other problem is an adequate legal defense, and the costs associated with your system. Again your statistic also shows that the Alaska Native is unable to pay the cost of a legal defense. Which could be therefore bring it to reality that it would be the Alaska Native that is likely to face execution.

We ask your consideration, and reject the Advisory Vote on the issue of Capitol Punishment.

Respectfully,

Jeffrey Anderson, President

From Croft

DEATH PENALTY COST ANALYSIS FIRST FOUR YEARS

1997 KNOWLES ADMINISTRATION

1994 HICKEL ADMINISTRATION

CORRECTIONS

Spring Creek Correctional Facility

\$6,762,600 (does not include capital costs)

\$3,587,300 (does not include capital costs)

ADMINISTRATION

Public Defender Agency
Office of Public Advocacy

\$11,505,400
\$7,734,300

\$6,316,100
\$5,263,100

LAW

Criminal Division

\$10,289,400

\$7,289,100

COURTS

Trial Courts

\$4,359,792

2,472,300

Total Estimated Costs First Four Years

\$40,651,492*

\$24,927,900**

Costs Per Case

\$4,065,149

\$4,154,650

*Figure based on 10 death penalty cases per year.

**Figure based on 6 death penalty cases per year.

SEX	RACE	DATE OF BIRTH	DATE OF ARREST	AGE AT ARREST	YEARS SENTENCED	DATE OF RELEASE	NOTES	YEARS
F	B	3/10/45	7/6/78	33	99	12/31/9999		99
F	I	2/14/71	6/10/85	14	45	7/13/2075		45
F	W	9/12/56	6/10/91	35	30	12/14/2004		30
F	W	1/31/42	7/29/88	46	40	7/28/2008		40
F	W	12/9/61	4/10/87	26	40	8/8/2000	20 suspended	40
F	W	9/1/59	11/23/16	33	60	5/20/1994	25 suspended	60
F	W	12/8/38	6/25/82	44	30	4/24/2007		30
F	W	5/20/65	3/5/87	22	99	00/00/0000		99
F	W	6/15/65	3/10/84	19	99	6/2/2050		99
F	W	8/8/59	12/10/94	35	85	8/9/2051		85
M	A	7/30/63	8/2/86	23	30	4/3/2003		30
M	A	12/28/46	5/23/88	42	25	3/6/2005		25
M	A	2/17/17	10/4/88	71	30	6/4/2015		30
M	A	8/19/76	5/31/95	19	70	9/28/2028	20 suspended	70
M	A	1/26/56	11/7/89	33	99	11/06/2121	2 counts murder 1. 99 yrs each.	99
M	B	11/17/53	12/6/82	29	99	4/20/2049		99
M	B	7/30/50	6/28/74	24	99	12/31/2099		99
M	B	4/18/50	7/8/87	37	99	07/11/2119	1 count murder 1, 99 yrs. 1 count kidnapping, 99 yrs. 198 total.	99
M	B	11/17/62	6/23/94	32	66	10/11/2039		66
M	B	5/15/66	6/12/85	19	99	9/10/2051		99
M	B	12/7/75	7/18/95	20	60	7/17/2035	49 suspended, 7 for assault, 2 for criminal mischief	51
M	B	5/3/60	9/20/86	26	99	9/19/2052		99
M	B	10/8/60	8/6/86	26	99	04/06/2255	4 counts murder 1. 1 count attempt to commit a felony. 403 yrs tot.	99
M	B	7/15/56	5/6/87	31	55	9/3/2020		55
M	B	2/23/47	11/11/83	36	50	10/16/2018		50
M	B	11/6/61	9/4/90	29		3/5/1998	Not convicted. Should not be on list.	
M	B	7/8/51	10/25/93	42	99	10/24/2129	1 count murder 1. 1 count attempt to commit a felony. 204 yrs total.	99
M	B	4/14/73	10/6/89	16	89	2/3/2049	10 suspended	89
M	B	7/6/74	10/28/94	20	70	7/2/2041		70
M	B	2/26/63	12/26/88	25	99	12/25/2054		99
M	B	5/1/58	6/6/89	31	99	6/6/2055		99
M	H	7/31/60	5/20/96	36	50	9/18/2029	25 suspended	50

SEX	RACE	DATE OF BIRTH	DATE OF ARREST	AGE AT ARREST	YEARS SENTENCED	DATE OF RELEASE	NOTES	YEARS
M	H	10/27/61	7/21/89	28	99	8/10/2059		99
M	H	11/19/56	9/21/89	33	70	5/21/2036		70
M	I	11/1/75	5/1/93	18	99	07/03/2099		99
M	I	12/17/60	10/31/95	35	99	10/30/2061		99
M	I	8/6/30	11/26/91	61	99	11/25/2067		99
M	N	7/12/72	7/9/95	23	25	7/7/2013		25
M	N	9/5/62	6/14/85	23	40	3/17/2012	20 suspended	40
M	N	11/30/66	11/18/88	22		3/9/1998	Not guilty of murder 1. Should not be on list.	
M	N	3/5/66	9/16/84	18	65	8/18/2028		65
M	N	5/1/62	4/22/81	19	75	11/14/2031		75
M	N	4/13/75	11/24/93	18	50	3/25/2027		50
M	N	2/27/68	7/31/83	15	55	3/30/2020	Murder 1, 25 yrs, murder 2, 15 yrs, attempt to commit a felony 15 y	25
M	N	11/13/43	7/21/71	28	99	11/27/2072		99
M	N	6/8/66	2/16/90	24	99	02/15/2122	2 counts murder 1. 1 count arson. 198 yrs total.	99
M	N	4/11/45	10/16/89	49		12/5/2002	Convicted of Assault in the 1st. Should not be on list.	
M	N	7/24/33	7/10/90	57		00/00/0000	Should not be on list. Convicted murder 2 not sentenced.	
M	N	6/6/59	2/4/81	22	99	00/00/0000	Life sentence, eligible for parole after 20 yrs served.	99
M	N	8/7/71	8/7/92	21	45	8/7/2022	15 years suspended	45
M	N	10/11/62	2/11/90	28	75	2/11/2040		75
M	N	11/12/69	7/22/89	20	99	3/21/2060		99
M	N	12/15/68	3/11/89	21	75	3/11/2039		75
M	N	5/17/48	3/24/85	37	30	5/4/2005		30
M	N	3/18/69	7/2/90	21	65	10/30/2033		65
M	N	3/11/66	5/2/87	21	99	12/30/2189	3 counts murder 1, 99 yrs each. Other convictions. 304 yrs total.	99
M	N	9/5/69	5/30/86	17	50	2/26/2033		50
M	N	12/3/53	4/24/93	40	99	8/23/2072		99
M	N	8/1/65	8/26/86	21	99	3/16/2053		99
M	N	11/26/47	12/27/82	35	99	06/25/2116	2 counts murder 1, 99 years each. 198 yrs total.	99
M	N	4/11/62	2/17/85	23	99	9/13/2049		99
M	N	10/13/74	2/12/92	18	65	6/13/2035		65
M	N	3/10/51	3/20/81	30	99	04/05/2179	3 counts murder 1, 99 yrs each. 297 yrs total.	99
M	N	3/19/62	9/18/95	33	100	1/18/2065		100

SEX	RACE	DATE OF BIRTH	DATE OF ARREST	AGE AT ARREST	YEARS SENTENCED	DATE OF RELEASE	NOTES	YEARS
M	N	10/28/63	11/18/84	21	40	9/13/2011		40
M	N	2/9/62	12/5/79	17	100	07/10/2080	2 counts, life imprisonment concurrent sentence	100
M	N	9/10/65	9/6/94	29	99	9/5/2060		99
M	N	11/8/57	3/23/78	20	99	1/1/2078		99
M	N	2/12/43	10/3/88	45	70	10/2/2030		70
M	N	6/1/53	9/8/95	42		1/6/2009	Attempted murder, 20 suspended. Should not be on list.	
M	N	6/23/62	2/13/83	21		2/17/1998	Should not be on list.	
M	N	5/7/57	2/10/84	27	99	5/8/2070		99
M	N	8/25/51	9/16/77	26	40	1/22/2002		40
M	N	12/27/63	1/19/83	20	45	8/31/2013	25 suspended	45
M	N	10/21/51	5/25/95	44	99	99/99/9999		99
M	N	11/5/65	3/30/95	30		11/26/2021	Attempted murder 1, 50 yrs 12 suspended. Should not be on list.	
M	N	3/3/54	3/17/81	27	30	4/18/2001	Reduced 10 years by sentence modification.	30
M	N	9/3/53	12/31/88	35	75	12/30/2038		75
M	W	9/7/28	9/23/83	55	40	12/3/2010		40
M	W	11/2/74	4/11/94	20	99	7/31/2067		99
M	W	12/23/63	4/24/87	24	99	04/22/2225	2 cts murder 1 , 99 yrs ea. 99yrs kid, 60 yrs sex asslt. 357 yrs total.	99
M	W	9/10/62	2/10/83	21	99	1/16/2052		99
M	W	9/24/49	6/14/80	31	99	2/8/2047		99
M	W	10/21/75	2/26/94	19	75	2/26/2044		75
M	W	6/12/69	3/23/91	22	47	7/22/2022	30 yrs suspended, 7 years for robbery.	40
M	W	2/25/66	11/11/85	19	50	11/9/2026		40
M	W	4/12/67	1/17/84	17	35	00/00/0000		35
M	W	2/27/62	6/6/93	31		6/5/2023	Murder 2, 10 yrs suspended should not be on list.	
M	W	11/4/46	5/17/77	31	99	12/31/2099		99
M	W	5/13/64	11/9/85	21	99	11/29/2051		99
M	W	9/21/68	12/23/93	25	50	4/23/2027	10 yrs suspended.	50
M	W	7/23/54	5/20/76	22	99	12/31/2099		99
M	W	10/1/49	7/26/85	36	50	7/5/2012	Reduced 10 yrs sentence modification.	40
M	W	12/6/68	9/4/84	16	30	10/7/2005		30
M	W	9/5/47	1/26/85	37	25	11/25/2001	5 yrs suspended.	25
M	W	2/22/59	8/15/86	27	45	8/13/2016		45

SEX	RACE	DATE OF BIRTH	DATE OF ARREST	AGE AT ARREST	YEARS SENTENCED	DATE OF RELEASE	NOTES	YEARS
M	W	8/29/64	4/4/85	21	37	1/14/2010	30 years suspended, 7 yrs for robbery	30
M	W	12/16/65	12/13/95	30	45	12/12/2025	15 suspended	45
M	W	9/19/72	3/21/91	19	99	3/20/2057		99
M	W	1/23/51	7/7/86	35	40	3/6/2013		40
M	W	7/25/65	4/4/85	20	30	9/11/2005	30 yrs suspended.	30
M	W	4/4/66	3/5/87	21	75	3/4/2037	Added sentence	75
M	W	1/4/63	5/26/85	22	85	3/10/2042		85
M	W	11/19/40	5/16/93	53	60	5/15/2033	39 years suspended.	60
M	W	9/1/57	1/1/94	37	99	1/1/2060		99
M	W	8/31/61	3/10/84	23	60	6/5/2024		60
M	W	5/25/66	5/14/89	23	23	5/14/2005		23
M	W	5/30/53	9/22/96	43		8/22/2002	Attempt to commit felony. Should not be on list.	
M	W	3/18/58	4/11/83	25	60	11/24/2022		60
M	W	3/31/53	2/11/88	35	99	2/27/2054		99
M	W	5/28/52	11/11/85	33	25	7/11/2002	15 yrs suspended.	25
M	W	8/24/60	10/3/78	18	99	06/14/2079		99
M	W	4/27/57	1/8/91	34	99	01/06/2157	Several other convictions. 249 years total.	99
M	W	4/9/60	10/22/86	26	50	2/20/2020		50
M	W	7/4/63	2/10/83	20	40	9/4/2008	59 suspended	40
M	W	2/15/39	10/27/83	44	99	02/27/2545	4 counts murder 1, 99 yrs ea. Several other convtions. 561 yrs total	99
M	W	11/11/59	9/3/92	33	99	9/2/2078		99
M	W	7/10/64	8/29/86	22	99	8/28/2052		99
M	W	1/1/44	3/1/83	39	99	08/30/2458	6 counts murder 1, 99 yrs each. Other convictions. 634 years total.	99
M	W	5/22/71	4/3/88	17	99	12/3/2055		99
M	W	5/21/54	10/4/94	40	99	10/4/2060		99
M	W	10/20/58	4/9/86	28	50	8/9/2019	25 yrs suspended.	50
M	W	12/29/54	7/28/88	34	40	3/27/2015		40
M	W	1/9/45	11/8/80	35	99	8/24/2047		99
M	W	2/2/61	6/9/81	20	60	08/23/2094	Several other convictions. 169 yrs total.	60
M	W	1/5/72	3/21/91	19	99	3/20/2057		99
M	W	11/17/50	4/10/86	35		12/16/2012	2 counts murder 2. Should not be on list.	
M	W	8/31/41	10/13/88	47	99	08/20/2127	2 counts murder 1. 99 yrs each. Other convictions. 213 yrs total.	99

SEX	RACE	DATE OF BIRTH	DATE OF ARREST	AGE AT ARREST	YEARS SENTENCED	DATE OF RELEASE	NOTES	YEARS
M	W	10/3/52	5/19/86	34	99	9/17/2053		99
M	W	7/4/73	4/10/86	13		10/19/2009	Convicted of murder 2. Should not be on list.	
M	W	6/14/68	2/24/94	26	65	9/20/2037		65
M	W	12/23/63	12/27/84	21	60	12/4/2028		60
M	W	2/28/46	10/24/88	42	99	10/24/2053		99
M	W	11/3/71	12/18/92	21	99	12/18/2058		99
M	W	6/29/55	1/24/90	35	99	1/24/2056		99
M	W	2/1/61	3/10/84	23	99	5/25/2050		99
M	W	11/20/51	11/15/91	40	75	3/16/2035		75
M	W	9/9/44	12/24/82	38	99	6/4/2049		99
M	W	9/15/50	11/16/92	42	60	11/15/2032		60
M	W	6/18/65	6/28/88	23	99	11/11/2092		99
M	W	12/1/58	5/14/84	25		11/25/2002	Convicted of manslaughter. Should not be on list.	
M	W	8/31/62	3/5/87	25	99	3/4/2053		99
M	W	2/14/59	1/13/89	30	60	1/30/2029	15 yrs suspended.	60
M	W	3/8/41	1/15/83	42	99	5/25/2050		99
M	W	9/10/60	11/12/95	35	99	11/15/2061		99
M	W	10/22/49	5/19/86	37	99	5/18/2052		99
M	W	4/21/60	7/27/84	24	40	6/4/2011		40
M	W	10/1/47	5/7/82	35	99	10/13/2246	4 counts murder 1. 99 yrs each. 396 years total.	99
M	W	8/26/59	1/17/86	27	99	1/17/2052		99
M	W	10/30/24	12/10/81	57	60	6/3/2022		60
M	W	11/13/77	10/4/94	17	55	6/4/2031		55
M	W	4/28/52	9/8/75	23	99	12/31/2999		99
M	W	12/28/51	6/12/92	41	99	6/11/2058		99
M	W	10/31/58	2/25/84	26	60	5/22/2024	39 yrs suspended.	60
M	W	1/17/69	8/5/90	21	99	08/05/2122	1 count murder 1. 99 yrs. 1 count atmpnt to commit a felony 99 yrs.	99
M	W	8/23/68	7/23/92	24	99	1/18/2061		99
M	W	11/21/47	2/18/93	46	55	10/18/2029		55
M	W	8/23/74	6/18/96	22	99	4/8/2064		99
M	W	7/23/56	12/15/76	20	99	99/99/9999	2 counts murder 1. 99 yrs each. 198 yrs total.	99
M	W	8/18/77	10/4/94	17	65	2/1/2038		65

SEX	RACE	DATE OF BIRTH	DATE OF ARREST	AGE AT ARREST	YEARS SENTENCED	DATE OF RELEASE	NOTES	YEARS
	W	9/18/67	8/2/94	27		10/13/2005	1 Count attempt to commit a felony. Should not be on list.	
	W	5/3/61	12/3/81	20	30	6/19/2002		30
	W	8/21/72	1/8/89	17	99	1/7/2065		99
	W	12/24/62	8/6/95	33	69	8/5/2041	30 yrs suspended.	69
	W	12/28/63	8/22/82	19	99	9/16/2055		99
	W	8/2/57	1/8/96	39	99	1/7/2062		99
	W	7/24/67	7/3/84	17	30	9/11/2004		30
	W	11/21/76	5/27/94	18	45	5/25/2024	20 yrs suspended.	45
	W	5/5/62	12/13/87	25	99	12/12/2053		99
	W	3/25/66	8/22/82	16	114	3/9/2049		114
	W	9/22/61	2/16/95	34	66	2/15/2039		66
	W	4/2/55	3/22/86	31	99	7/20/2053		99
	W	4/14/45	11/11/82	38	30	10/9/2001		30
	W	2/5/53	1/9/80	27	99	12/31/2099		99
	W	12/21/73	9/20/91	18	99	9/19/2057		99
	W	8/12/58	5/26/82	24	99	10/29/2048		99
	W	1/9/53	2/15/87	34	99	2/14/2053		99
	W	1/15/47	2/17/83	36	99	11/27/2049		99
	W	2/7/57	9/15/86	29	104	1/12/2053		104
	W	9/13/48	6/2/89	41	70	6/1/2043		70
	W	10/10/46	8/7/85	39	35	1/2/2009	10 yrs suspended.	35
	W	12/31/58	7/17/86	28	99	11/20/2099	1 count murder 1. 99 yrs. Other convictions. 169 yrs total	99
	W	1/11/31	11/9/93	62	99	11/9/2059		99
	W	7/13/43	11/16/81	38	99	9/27/2047		99
	W	5/19/77	10/4/94	17	99	10/3/2060		99
	W	1/29/57	11/19/91	34	99	11/18/2057		99
	W	9/14/44	10/27/92	48	99	11/2/2062		99
	W	10/22/75	2/23/94	19	30	10/23/2016	30 yrs suspended.	30
	W	6/10/52	5/15/85	33	50	9/13/2018		50
TOTAL YEARS								13305
TOTAL INMATES								176
AVERAGE SENTENCE FOR 1ST DEGREE MURDER								76

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

SEX	RACE	DATE OF BIRTH	DATE OF ARREST	AGE AT ARREST	YEARS SENTENCED	DATE OF RELEASE	NOTES	YEARS
	W	9/18/67	8/2/94	27		10/13/2005	1 Count attempt to commit a felony. Should not be on list.	
	W	5/3/61	12/3/81	20	30	6/19/2002		30
	W	8/21/72	1/8/89	17	99	1/7/2065		99
	W	12/24/62	8/6/95	33	69	8/5/2041	30 yrs suspended.	69
	W	12/28/63	8/22/82	19	99	9/16/2055		99
	W	8/2/57	1/8/96	39	99	1/7/2062		99
	W	7/24/67	7/3/84	17	30	9/11/2004		30
	W	11/21/76	5/27/94	18	45	5/25/2024	20 yrs suspended.	45
	W	5/5/62	12/13/87	25	99	12/12/2053		99
	W	3/25/66	3/22/82	16	114	3/9/2049		114
	W	9/22/61	2/16/95	34	66	2/15/2039		66
	W	4/2/55	3/22/86	31	99	7/20/2053		99
	W	4/14/45	11/11/82	38	30	10/9/2001		30
	W	2/5/53	1/9/80	27	99	12/31/2099		99
	W	12/21/73	9/20/91	18	99	9/19/2057		99
	W	8/12/58	5/26/82	24	99	10/29/2048		99
	W	1/9/53	2/15/87	34	99	2/14/2053		99
	W	1/15/47	2/17/83	36	99	11/27/2049		99
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	W	12/31/58	7/17/86	23	99	11/20/2099	1 count murder 1. 99 yrs. Other convictions. 169 yrs total.	99
	W	1/11/31	11/9/93	62	99	11/9/2059		99
	W	7/13/43	11/16/81	38	99	9/27/2047		99
	W	5/19/77	10/4/94	17	99	10/3/2060		99
	W	1/29/57	11/19/91	34	99	11/18/2057		99
	W	9/14/44	10/27/92	48	99	11/2/2062		99
	W	10/22/75	2/23/94	19	30	10/23/2016	30 yrs suspended.	30
	W	6/10/52	5/15/85	33	50	9/13/2018		50
TOTAL YEARS								13305
TOTAL INMATES								176
AVERAGE SENTENCE FOR 1ST DEGREE MURDER								76

SEX	RACE	DATE OF BIRTH	DATE OF ARREST	AGE AT ARREST	YEARS SENTENCED	DATE OF RELEASE	NOTES	YEARS
-----	------	---------------	----------------	---------------	-----------------	-----------------	-------	-------

Females

Asian	0	0.00%
Black	1	10.00%
Hispanic	0	0.00%
Native American	1	10.00%
Unknown	0	0.00%
White	8	80.00%
Total Females	10	

Males

Asian	5	3.01%
Black	15	9.04%
Hispanic	3	1.81%
Native American	38	22.89%
Unknown	0	0.00%
White	105	63.25%
Total Males	166	

Total

Asian	5	2.84%
Black	16	9.09%
Hispanic	3	1.70%
Native Americ	39	22.16%
Unknown	0	0.00%
White	113	64.20%

Charles Campbell
3020 Douglas Highway
Juneau, Alaska 99801
(907) 586-5793 Fax (907) 586-1252
cfc@alaska.net

Senator Robin Taylor
Alaska State Legislature
State Capital Building
Juneau, Alaska

May 1, 1997

Re: Debate on SB 60
(Advisory vote on Capital Punishment)

Dear Senator Taylor:

During yesterday afternoon's discussion of SB 60, you made a number of comments that are in error. Since you certainly want to be on solid ground factually, I strongly recommend that you not place quite so much reliance on the Texas pro-death penalty organization *Justice for All* for information on this issue.

The 1987 Stanford Law Review article by professors Radelet and Bedau, which identified twenty-three instances of probably innocent offenders being executed since 1900, has not been "discredited." The article published one year later (November 1988) which attempted to refute the Radelet-Bedau findings is the one that has been most widely criticized in the academic community. This is hardly surprising as the two former prosecutors who wrote that piece were assigned to the job by Attorney General Ed Meese, an ardent death penalty enthusiast. I seriously doubt that Mr. Markman and Mr. Cassell were instructed to seek out the truth in this matter wherever the truth might take them.

There is no doubt that innocent persons have been executed in the United States during this century. Last year you made the point- in testimony before the House Finance Committee as I recall- that the occasional execution of an innocent person, should not cause us to shrink from re-enactment of the death penalty. To be sure, the stringent guidelines set forth in the Gregg v. Georgia decision reduces the likelihood that innocent persons will be executed. But we all know that mistakes have been made and will be made again.

With respect to the question of deterrence, the indisputable fact, known very well by most members of this body, is that exhaustive studies done by criminologists and other social scholars over the past forty years, have failed to establish that use of the death penalty has a deterrent effect greater than the prospect of long-term imprisonment. *Justice for All* concedes this fact on page 8 of its lengthy Internet document. (Your "lighthouse" analogy is poetic but unpersuasive. The prospect of life in prison works just as well as a "lighthouse.")

Your notion of the death penalty's being a deterrent at least to the person executed, doesn't work very well either, since offenders sentenced to death must be managed in confinement for up to ten years or more before final deterrence by execution. For this same reason, your argument about making prison officers safer by enacting the death penalty is not valid. The death penalty, if anything, increases the danger to the prisoner officer. (Incidentally, since you have indicated your concern about the safety and well-being of correctional officers in Alaska's prisons, I urge

you to use your influence toward eliminating those *extemely dangerous cuts* presently proposed in the Department of Corrections budget.)

I regret that you have chosen to identify with the preposterous contention made by *Justice for All* that the death penalty as utilized in the U.S. is unsullied by racial bias. In yesterday's debate, you asked your colleagues to choose the interpretation made by this organization and its obscure allies over overwhelming evidence to the contrary. It is unlikely that the House of Delegates of the American Bar Association would have passed its resolution this past February asking for a moratorium, without having exhaustively examined the evidence. Also consider the findings of the General Accounting Office and the scores of objective studies that have so clearly demonstrated the outrageous racial bias of the death penalty. And consider the conclusions of former Supreme Court Justices Blackmun and Powell, who once supported the death penalty, but now condemn it, primarily because of its bias against poor people and minorities.

The obscenely high cost of the death penalty is a simple matter of those melancholy, undisputable entries in the ledgers of the unfortunate jurisdictions that have made use of the death penalty. This a matter so well established as to be hardly worthy of serious discussion.

I am encouraged by the fact that you began your remarks on the floor of the Senate yesterday by insisting that in implementing the death penalty Alaska would not be "killing" the offender but would be "executing" him. On reflection you probably realize that this was a point not very well taken. To render a person dead is to kill that person. Last month officials in the State of Florida set a man's head on fire. If they were not trying to kill him, it is truly macabre to consider what they *were* trying to do. In any event, I was encouraged by your comments yesterday, because they indicate to me that you have a deeply hidden revulsion to the idea of the state deliberately killing one of its citizens. Since you are surely a kind and decent person, my hope- though forlorn it may now seem to be- is that you may someday join the ranks of such persons as Ray Markey (Florida's former "Mr. Death Penalty") Justices Blackmun and Powell, and my colleague Don Cabana, who as warden of Mississippi's Parchman Prison, executed a few people before becoming an ardent opponent of the death penalty. All of these men changed their minds. What a great thing it would be to have a man of such formidable persuasiveness as you on our side of this issue!

Along this line, let me recommend two books: *Death at Midnight, The Confession of an Executioner* by Donald A. Cabana, Northeastern University Press, and *Among the Lowest of the Dead* by David Von Drehle, Times Books- Random House. This book traces Florida's depressing experience with the death penalty since the 1976 Gregg v. Georgia decision.

Please be assured of my sincerity in this matter, and my willingness to be of service to you in any way that I can.

Sincerely yours,

cc: Members of the Senate
Members of House Judiciary and Finance Committees

FAX

To: Rep. Joe Green
Fax phone: 465-4316
Phone: 465-4931

Dear Rep. Green: This is a copy of the FAX I sent to Rep. James this morning re: HB131. Thank you for your attention.

1551 Farmers Loop
Fairbanks, Alaska 99709
24 March 1997
(907) 479-6912
FAX phone: (907) 455-6912

Representative Jeannette James
Alaska House of Representatives
State Capitol
Juneau, Alaska 99801

Dear Ms. James;

We are writing in opposition to HB131. We believe the bill is too vague in asking for a yes or no vote without offering alternative sentences, and would present results that really wouldn't help legislators make a rational decision in the matter.

We are convinced that the possibility of errors in capital crimes is just too real. We understand that repeated appeals of sentence run up the cost of convictions way above that of life imprisonment for these crimes. At least if a person is sentenced to life in prison there IS the opportunity for redress in case of error.

Furthermore, we believe that the death penalty does not deter criminals from committing heinous crimes; this lack of deterrence is amply demonstrated in states that kill convicted murderers-- their rate of such crimes is not lower than in states without the death penalty.

Please do everything in your power to prevent our state from stooping to the level of the criminal by committing murder in the name of its citizens.

Sincerely,

Ruth and Carl Benson

24 March, 1997

To: Representative Joe Green
Chair, Judiciary Committee

Fax: 465-4316

From: Emily Nenon
1635 Northwestern Ave.
Anchorage, AK 99508

Phone/Fax: 277-8366

RE: TODAY'S JUDICIARY COMMITTEE MEETING
HB131 - Advisory Ballot Question on the Death Penalty
THIS BILL MUST NOT GET OUT OF COMMITTEE!

Dear Representative Green,

I am opposed to the death penalty for many reasons. My appeal to you today is on financial grounds.

You folks in Juneau have had your hands full trying to cut the budget recently (among other things) and I commend your hard and thoughtful work on behalf of your constituents. I saw the crowd at the LIO in Anchorage Saturday that showed up for the Finance Committee hearing; (I was there to listen in on the teleconference out of Fairbanks on religion and ethical issues.)

If this advisory ballot question is not stopped, the crowds are going to come out again in a couple years. How are legislators then going to explain to people which of their social programs, educational programs, even the most basic issues of sanitation in villages, must be cut to finance the 20 million dollars needed to set up the death penalty? Which village is going to have to stay on honey buckets a while longer because we need another 5 million dollars to kill someone?

I see putting out this ballot question to an uninformed public as shirking legislative responsibility as representatives of the people. Please save us all trouble in the future and don't let this bill go any farther.

Thank you for your time and consideration.

Sincerely,



Emily Nenon

S B

6 3

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: April 16, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/29/97

The JUDICIARY Committee considered:

SB 63

SENATE BILL NO. 63

DEADLY WEAPON OFFENSES BY JUVENILES

"An Act providing for automatic waiver of juvenile jurisdiction and prosecution of minors as adults for certain violations of laws by minors who use deadly weapons to commit offenses that are crimes against a person, and relating to the sealing of the records of those minors."

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

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) S. FIN./CORRECTIONS,

COURTS & PUB. DEF. (ADMIN)

zero fiscal note(s) _____

zero fiscal note(s) PUB. SAFETY (TROOPERS)

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	CROFT			<input checked="" type="checkbox"/>	
	RUBEKBERG	<input checked="" type="checkbox"/>			
	PORTER	<input checked="" type="checkbox"/>			
	GREEN	<input checked="" type="checkbox"/>			
	JAMES	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 63

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act providing for automatic waiver of juvenile BRU: All
jurisdiction and prosecution of minors as adults for certain violations.." Component: All
 Sponsor: Senator Donley
 Requester: House Judiciary 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	311.0	618.4	925.8	1,931.0	1,931.0	1,931.0
TOTAL OPERATING	311.0	618.4	925.8	1,931.0	1,931.0	1,931.0

CAPITAL EXPENDITURES		1,350.0	7,650.0			
----------------------	--	---------	---------	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	311.0	1,968.4	8,575.8	1,931.0	1,931.0	1,931.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	311.0	1,968.4	8,575.8	1,931.0	1,931.0	1,931.0

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

POSITIONS

FULL-TIME				25	25	25
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Please see attached explanation.

Prepared by: Bruce Richards
 Division: Commissioner's Office
 Approved by: Commissioner Margaret M. Pugh *Margaret M. Pugh*
 Agency: Department of Corrections

Phone: 465-3307
 Date: 4/28/97
 Date: 4/28/97

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Assumptions

1. According to DFYS the number of juveniles who would be automatically waived under the proposed change to AS47.12.030(a) is approximately eight per year. These juveniles would be convicted of felonies which would average a sentence of three years.
2. Each felony case will require a pre-sentence investigation (PSI) report for the court. Preparing a PSI report for class A felonies costs approximately \$630 each. Each class B felony PSI report costs approximately \$455.
3. The statewide average daily cost of incarceration is \$105.27. It is assumed that those convicted of AS 47.12.030(a) offenses will require incarceration in state correctional facilities, as opposed to lower-cost community residential centers.
4. The correctional system cannot safely or legally absorb additional prisoners without additional beds being added. The system has operated over emergency capacity for several years. In addition to posing safety hazards, operating over emergency capacity has resulted in contempt of court fines which will total approximately \$2.4 million by the end of FY97. Without constructing new beds, the addition of violent juvenile offenders serving lengthy sentences in the adult system will worsen crisis levels of overcrowding, increasing the risks of harm to staff, prisoners, and the public.
5. The average cost of construction for a correctional bed is approximately \$100,000. A maximum security bed costs approximately \$160,000. The cost used in these calculations should be considered very conservative, given the nature of offenses for automatically waived juveniles. The department has projected that expansion of an existing facility by 64 beds would address the projected number of inmates in Senate Bi' 63, as well as the current juvenile population already in state correctional facilities.
6. These cost estimates are not adjusted for inflation, nor do they reflect the significant upward trend in rates of violent juvenile crime. It is hoped that any deterrent effect achieved by this measure will offset those factors. If deterrence does not sufficiently offset the escalating juvenile crime rate, the operating and capital expenses will be higher.
7. The department (when possible) houses waived juveniles in single cells, at least during the initial months of incarceration, to determine their level of vulnerability to adult predators in the prison population. It is generally assumed that juvenile inmates require closer security than the average adult. The department does try to place juveniles with other juveniles when possible. However, this is more difficult to do in smaller facilities.

Operating Expenses

FY98: 8 class B felony offenses X \$455 per PSI report= \$3.6
 8 inmates X 365 days X \$105.27 per day = \$307.4
 TOTAL = \$311

YEAR	OLD+ NEW	TOTAL	COST PER DAY	DAYS	INCARC COST PER YEAR	PSI COSTS	TOTAL
FY98	8	8	\$105.25	365	\$307.4	\$3.6	\$311
FY99	8 + 8	16	\$105.25	365	\$614.8	\$3.6	\$618.4
FY00	16 + 8	24*	\$105.25	365	\$922.2	\$3.6	\$925.8

*Beginning in FY01 the first offenders (8) under proposed AS 47.12.030(a) would be released. This results in a no net gain from this point forward since eight would enter the system and eight would be released.

Capital Expenses

64 bed expansion = \$9,000.0

Operating expenses for the expanded facility = \$1,931.0

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BII No. 5
Bill Version: SB 63
(S) Publish Date: 4-10-97

Revision Date: 4/10/97
Title: "An Act providing for automatic waiver of juvenile jurisdiction & prosecution of minors as adults for certain violations."
Sponsor: Sen. Donley
Requestor: Senate Finance Committee

Dept. Affected Corrections
BRU: All
Components: All
Serial # 694

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 98	FY 99	FY2000	FY2001	FY2002	FY2003
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

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

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

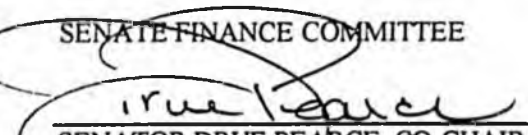
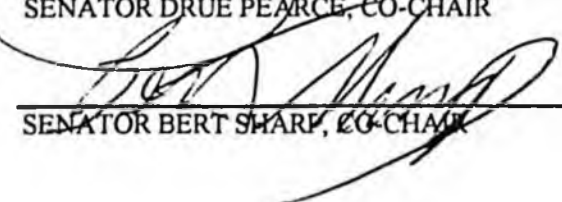
FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	***	***	***	***	***	***

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)
see attached analysis

Prepared by: SENATE FINANCE COMMITTEE

SENATOR DRUE PEARCE, CO-CHAIR

SENATOR BERT SHARP, CO-CHAIR

Date: 4/10/97
Phone: 465-4993
Phone: 465-3004

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 63

Revision Date: 4/10/97
 Title: "An Act providing for automatic waiver of juvenile jurisdiction & presecution of minors as adults for certain violations.."
 Sponsor: Sen. Donley
 Requestor: Senate Finance Committee

Dept. Affected Corrections
 BRU: All

Components: All
 Serial # 694

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 98	FY 99	FY2000	FY2001	FY2002	FY2003
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

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

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

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	***	***	***	***	***	***

POSITIONS :

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

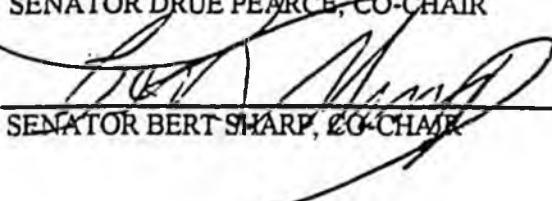
see attached analysis

Prepared by: SENATE FINANCE COMMITTEE

Date: 4/10/97


SENATOR DRUE PEARCE, CO-CHAIR

Phone: 465-4993


SENATOR BERT SHARP, CHAIR

Phone: 465-3004

Senate Bill 63
Senate Finance Committee
Fiscal Note Analysis

The accompanying Department of Corrections fiscal note based its fiscal impact on the assumption that approximately eight juveniles a year would be waived to adult court, convicted of felonies and serve prison time under Senate Bill 63. Since Senate Bill 63 has no mandatory sentencing provisions the Department of Corrections assumptions are not justified.

Additionally, the Department of Health and Social Services did not provide an offsetting fiscal impact of those juveniles which would not be entering their juvenile system.

The Department of Corrections contention that an expansion of an existing correctional facility, costing \$9,000,000, would be needed is actually based on the additional 180 juvenile increase resulting from the current mandatory waiver law and not the projected increase from Senate Bill 63.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 1
Bill Verson: SB 63
(S) Publish Date: 3-27-97

Revision Date: _____
Title: "An Act providing for automatic waiver of juvenile jurisdiction and prosecution of minors as adults..."
Sponsor: Senator Donley
Requestor: (S) JUD

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
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.)

This bill expands the number of crimes for which a minor will automatically be treated as an adult to include any crime against a person punishable as a felony in which the minor is alleged to have used a deadly weapon and was previously adjudicated or convicted of a felony offense against a person that involved the use of a deadly weapon. This is a large category of cases, ranging down to class C felonies. In juvenile court less focus is placed on trial and more energy is expended to find the appropriate treatment. As felonies in adult court, this bill will cause an increase in the numbers of cases to go to trial with attendant expenditures. Without accurate predictions as to the numbers of cases, the increase is difficult to quantify.

Prepared by: Barbara K. Brink, Director Phone: (907) 264-4414
Division: Public Defender Agency Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration Date: 3/21/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 63

Revision Date: _____
 Title: "An Act providing for automatic waiver of juvenile jurisdiction and prosecution of minors as adults..."
 Sponsor: Senator Donlev
 Requestor: (S) JUD

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 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.)

This bill expands the number of crimes for which a minor will automatically be treated as an adult to include any crime against a person punishable as a felony in which the minor is alleged to have used a deadly weapon and was previously adjudicated or convicted of a felony offense against a person that involved the use of a deadly weapon. This is a large category of cases, ranging down to class C felonies. In juvenile court less focus is placed on trial and more energy is expended to find the appropriate treatment. As felonies in adult court, this bill will cause an increase in the numbers of cases to go to trial with attendant expenditures. Without accurate predictions as to the numbers of cases, the increase is difficult to quantify.

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

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Alison M. Slagge
 Date: 3/21/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: No. 2
 Bill Verson: SB 63
 (S) Publish Date: 3-27-97
 Dept. Affected: Public Safety
 BRU: Alaska State Troopers
 Component: Detachments
 COMPONENT SERIAL NO. 0799

Revision Date: _____
 Title: Minor felons using guns treated as adults.
 Sponsor: Sen. Donley
 Requestor: S. Judiciary

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

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

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
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.)

This bill would not have any significant fiscal impact on AST.

Prepared By: Capt. Ted M. Bachman Phone: 269-5650
 Division: Alaska State Troopers Date: 03/21/97
 Approved by Commissioner: Ronald L. Otte Date: 3/21/97
 Agency: Department of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: SB 63

Revision Date: _____ Dept. Affected: Public Safety
 Title: Minor felons using guns treated as adults. BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Sen. Donley
 Requestor: S. Judiciary COMPONENT SERIAL NO. 0799

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	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
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.)

This bill would not have any significant fiscal impact on AST.

Prepared By: Capt. Ted M. Bachman Phone: 269-5650
 Division: Alaska State Troopers Date: 03/21/97
 Approved by Commissioner: Ronald L. Otte Date: 3/21/97
 Agency: Department of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB63

Revision Date: _____
Title: Automatic Waiver of Juveniles
Sponsor: Donley
Requestor: Senate (JUD)

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

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
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						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY98	FY99	FY00	FY01	FY02	FY03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

POSITIONS	FY98	FY99	FY00	FY01	FY02	FY03
FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

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

3/25/97 Prepared by: L. Diane Worley, Director
Division: Family & Youth Services
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3191
Date: 03/24/97
Date: 3/25/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 63

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act providing for automatic waiver of juvenile BRU: All
jurisdiction and prosecution of minors as adults for certain violations.." Component: All
 Sponsor: Senator Donley
 Requester: Senate Judiciary 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	311.0	618.4	925.8	1,931.0	1,931.0	1,931.0
TOTAL OPERATING	311.0	618.4	925.8	1,931.0	1,931.0	1,931.0

CAPITAL EXPENDITURES		1,350.0	7,650.0			
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	311.0	1,968.4	8,575.8	1,931.0	1,931.0	1,931.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	311.0	1,968.4	8,575.8	1,931.0	1,931.0	1,931.0

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

POSITIONS

FULL-TIME				25	25	25
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Please see attached explanation.

Prepared by: Bruce Richards
 Division: Commissioner's Office *Margaret M. Pugh*
 Approved by Commissioner: Margaret M. Pugh
 Agency: Department of Corrections

Phone: 465-3307
 Date: 3/24/97
 Date: 3/24/97

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Assumptions

1. According to DFYS the number of juveniles who would be automatically waived under the proposed change to AS47.12.030(a) is approximately eight per year. These juveniles would be convicted of felonies which would average a sentence of three years.
2. Each felony case will require a pre-sentence investigation (PSI) report for the court. Preparing a PSI report for class A felonies costs approximately \$630 each. Each class B felony PSI report costs approximately \$455.
3. The statewide average daily cost of incarceration is \$105.27. It is assumed that those convicted of AS 47.12.030(a) offenses will require incarceration in state correctional facilities, as opposed to lower-cost community residential centers.
4. The correctional system cannot safely or legally absorb additional prisoners without additional beds being added. The system has operated over emergency capacity for several years. In addition to posing safety hazards, operating over emergency capacity has resulted in contempt of court fines which will total approximately \$2.4 million by the end of FY97. Without constructing new beds, the addition of violent juvenile offenders serving lengthy sentences in the adult system will worsen crisis levels of overcrowding, increasing the risks of harm to staff, prisoners, and the public.
5. The average cost of construction for a correctional bed is approximately \$100,000. A maximum security bed costs approximately \$160,000. The cost used in these calculations should be considered very conservative, given the nature of offenses for automatically waived juveniles. The department has projected that expansion of an existing facility by 64 beds would address the projected number of inmates in Senate Bill 63, as well as the current juvenile population already in state correctional facilities.
6. These cost estimates are not adjusted for inflation, nor do they reflect the significant upward trend in rates of violent juvenile crime. It is hoped that any deterrent effect achieved by this measure will offset those factors. If deterrence does not sufficiently offset the escalating juvenile crime rate, the operating and capital expenses will be higher.
7. The department (when possible) houses waived juveniles in single cells, at least during the initial months of incarceration, to determine their level of vulnerability to adult predators in the prison population. It is generally assumed that juvenile inmates require closer security than the average adult. The department does try to place juveniles with other juveniles when possible. However, this is more difficult to do in smaller facilities.

Operating Expenses

FY98: 8 class B felony offenses X \$455 per PSI report= \$3.6
 8 inmates X 365 days X \$105.27 per day = \$307.4
 TOTAL = \$311

YEAR	OLD+ NEW	TOTAL	COST PER DAY	DAYS	INCARC COST PER YEAR	PSI COSTS	TOTAL
FY98	8	8	\$105.25	365	\$307.4	\$3.6	\$311
FY99	8 + 8	16	\$105.25	365	\$614.8	\$3.6	\$618.4
FY00	16 + 8	24*	\$105.25	365	\$922.2	\$3.6	\$925.8

*Beginning in FY01 the first offenders (8) under proposed AS 47.12.030(a) would be released. This results in a no net gain from this point forward since eight would enter the system and eight would be released.

Capital Expenses

64 bed expansion = \$9,000.0

Operating expenses for the expanded facility = \$1,931.0

FISCAL NOTE

No. 3

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: SB 63

(S) Publish Date: 4-1-97

Revision Date: _____
Title: Juvenile Waiver/Deadly Weapons

Dept. Affected: Alaska Court System
BRU: Trial Courts

Sponsor: Sen. Donley
Requestor: Senate Judiciary

Component: _____
COMPONENT SERIAL NO. 768

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	2.2	2.2	2.2	2.2	2.2	2.2
TRAVEL						
CONTRACTUAL	3.3	3.3	3.3	3.3	3.3	3.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	5.5	5.5	5.5	5.5	5.5	5.5

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

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

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	5.5	5.5	5.5	5.5	5.5	5.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	5.5	5.5	5.5	5.5	5.5	5.5

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

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

Phone: 264-8228
Date: 03/26/97

Approved by: Stephanie J. Cole, Acting Administrative Director
Agency: Alaska Court System

Date: 03/26/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 63

Revision Date: _____
Title: Juvenile Waiver/Deadly Weapons

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

Sponsor: Sen. Donley
Requestor: Senate Judiciary

COMPONENT SERIAL NO. 768

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	2.2	2.2	2.2	2.2	2.2	2.2
TRAVEL						
CONTRACTUAL	3.3	3.3	3.3	3.3	3.3	3.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	5.5	5.5	5.5	5.5	5.5	5.5

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

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

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1009 GF Match						
1004 GF	5.5	5.5	5.5	5.5	5.5	5.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	5.5	5.5	5.5	5.5	5.5	5.5

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

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

Phone: 264-8228
Date: 03/26/97

Approved by: Stephanie J. Cole, Acting Administrative Director
Agency: Alaska Court System

Date: 03/26/97

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ALASKA COURT SYSTEM
FISCAL ANALYSIS
SB 63

SB 63 provides for the automatic waiver into adult court of certain minors who are at least 16 years of age. A minor will be waived if charged with a crime against a person punishable as a felony in which the minor is alleged to have used a deadly weapon and the minor has either been previously adjudicated a minor or convicted as an adult for a similar crime.

According to the Division of Family and Youth Services, had this law been in place for fiscal year 1996, it would have resulted in 8 cases being waived into adult court. This note is based on that figure and assumes that 2 of those cases would have resulted in felony jury trials; a 25% trial rate is low for juvenile waiver cases. Based on the typical length of trial for other juvenile waiver cases, it is assumed that the average trial will last 5 days with an additional 2 days for motions, hearings, and other judicial work.

The note is offset by the amount of judicial time that would have been spent on the waived cases in juvenile court.

Not reflected in this note is the anticipated increase in juvenile court workload that may result from this bill. Although minors in juvenile court have the same right to a jury trial as adults, very few trials actually occur because the consequences of being adjudicated a delinquent are not as severe as a criminal conviction. However, the consequences of being adjudicated a delinquent in a case covered under this bill will be perceived as more severe since it means a subsequent offense will lead directly to adult court. Because of this, it is expected that juveniles will be more aggressively defending their first offenses and more willing to go to trial. This increase in workload for the juvenile court has not been included in this note due to the difficulty in assessing the extent of its impact. However, if the impact is significant the court may return to the legislature seeking additional funds.

Alaska Court SystemFiscal AnalysisSB 63Personal Services

	<u>Total</u>
Additional Pro tem Superior Court judge funding	\$4,578
Overtime for clerical staff in Clerk's Office	<u>1,250</u>
Subtotal Personal Services	5,828
Offset for loss of work for juvenile court, Standing Master, Range 24A, 1/2 month	<u>(3,592)</u>
Total Personal Services	2,236

Contractual

Jury fees - 2 additional 5-day trials with 13 jurors at \$25 a day for each juror	<u>3,250</u>
Total estimated costs	<u><u>\$5,486</u></u>



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT - SB63

Treating juvenile offenders with multiple convictions for violent offenses with deadly weapons as adults

Senate Bill 63 would create a strong deterrent to the repeated use of deadly weapons by juveniles. Senate Bill 63 would treat minors age 16 and older, who for the second time use a deadly weapon to commit a violent crime, as adults.

Senate Bill 63 is modeled after the 19th Alaska Legislature's Senate Bill 26. SB26 passed the Senate 18 to 1 in 1996 but died in the House Finance Committee in the closing days of the session.

SB63 would prosecute minors as adults who:

1. use a deadly weapon to commit a crime against a person punishable as a felony,
2. are 16 or older, and
3. were previously adjudicated delinquent or convicted as an adult of using a deadly weapon to commit a crime against a person punishable as a felony.

Deadly weapons are defined by AS 11.81.900 as:

" 'deadly weapon' means any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive."

SB63 does not require any additional mandatory sentence or any specified punishment. Minors who are convicted of adult crimes, if incarcerated, are required by law to be segregated from adult prison populations as defined by AS 47.12.240.

The Department of Health & Social Services estimates that approximately 6 juveniles in FY'95 would have meet the criteria in SB63. These few violent juveniles represent a extraordinary danger to the public and should be dealt with as adults.

The Anchorage Police Department compiled 1995 data which revealed a 200% increase in arrests of juveniles for violent crimes between 1990 and 1994. That same period showed a much less increase of 40% in juvenile arrests for property crimes. Alaska lawmakers can help curb this unprecedented increase in juvenile violent crime in Alaska by passing SB63.

If you have further questions, please contact myself or Chris Hieb of my staff at 465-3892.

DD/dh

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-1648

MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

SECTIONAL ANALYSIS
SENATE BILL 63
2/11/97

SB 63 automatically waives juvenile jurisdiction requires prosecution of minors as adults for certain felonies using deadly weapons.

Section 1 adds an automatic waiver of juvenile jurisdiction for those minors at least 16 years old who for the second time commit a violent crime involving a deadly weapon, and cites a definition of 'deadly weapon' in AS 11.81.900.

Section 2 defines the Acts applicability to first and second offenses committed.

DD/clh

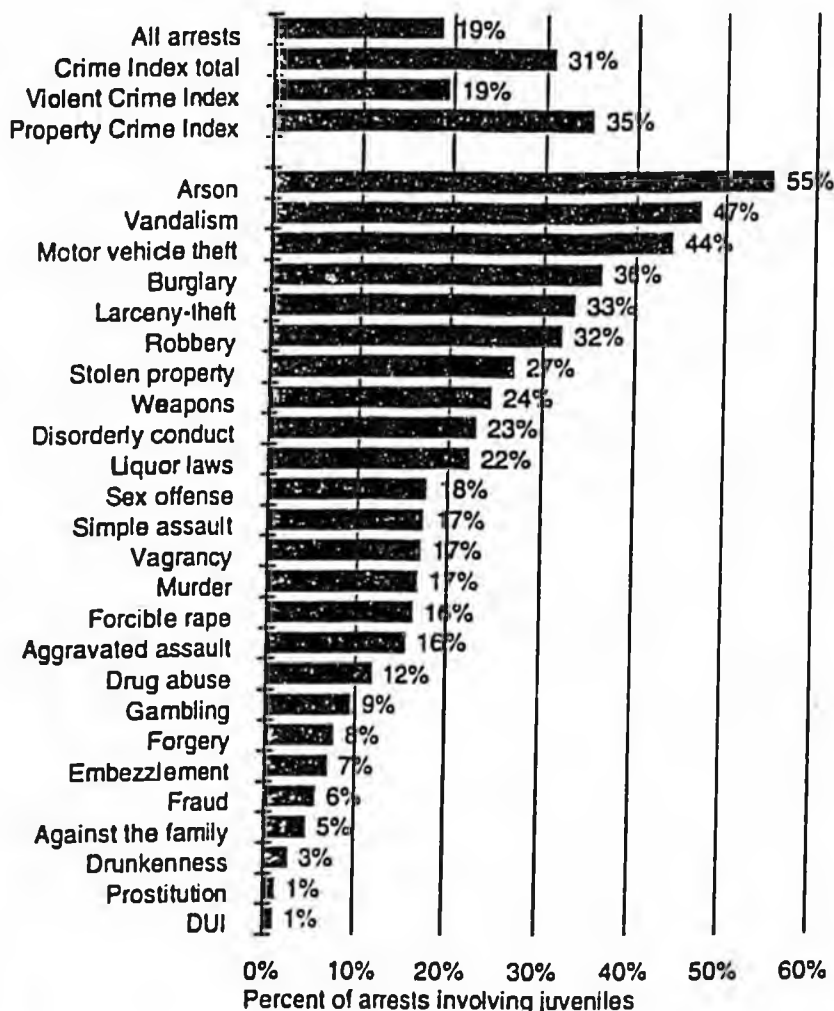
January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-1648

MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee

Produced in House

In 1994 juveniles accounted for 19% of all violent crime arrests and 14% of all violent crimes cleared by law enforcement

Juveniles accounted for a much larger proportion of property crime arrests than violent crime or drug arrests in 1994



- Nearly one-third of all persons arrested in 1994 for robbery were below age 18, well above the juvenile proportion of arrests for murder (17%), aggravated assault (16%), and forcible rape (16%).
- Juveniles were involved in 1% of all arrests for driving under the influence and prostitution, but more than 40% of all arrests for arson, vandalism, and motor vehicle theft.

Note: Running away and curfew violations are not presented in this figure because, by definition, only juveniles can be arrested for these offenses.

Data source: FBI. (1995). *Crime in the United States 1994*.

How much of the crime problem is caused by juveniles?

Arrest proportions accurately characterize the ages of individuals entering the justice system. The fact that juveniles were 17% of all persons arrested for murder in 1994 implies that 17% of all persons entering the justice system on a murder charge were juveniles, not that the juveniles committed 17% of all murders.

Because juveniles are more likely than adults to commit crime in groups, arrest percentages are likely to exaggerate the juvenile contribution to the crime problem. The FBI clearance data provide a better assessment of the juvenile contribution to crime.

Juveniles were responsible for 14% of all violent crimes cleared in 1994 and 25% of all property crimes cleared

The juvenile contribution to the crime problem in the U.S. in 1994 varied considerably with the nature of the offense. Based on 1994 clearance data, juveniles were responsible for:

- 10% of murders.
- 13% of aggravated assaults.
- 14% of forcible rapes.
- 20% of robberies.
- 21% of burglaries.
- 25% of larceny-thefts.
- 25% of motor vehicle thefts.
- 48% of arsons.

Crimes with greater discrepancies between the arrest and clearance proportions may be those in which group behavior is more common. For example, while the discrepancy is small for forcible rape, it is relatively large for motor vehicle theft, burglary, murder, and robbery.

All States allow juveniles to be tried as adults in criminal court under certain circumstances

There is more than one path to criminal court

A juvenile's delinquency case can be transferred to criminal court for trial as an adult in one of three ways:

- Judicial waiver.
- Prosecutorial discretion.
- Statutory exclusion.

In a given State, one, two, or all three transfer mechanisms may be in place.

Transfers to criminal court have been allowed in some States for more than 70 years

Some States have permitted juvenile offenders to be transferred to criminal court since before the 1920's — Arkansas, California, Colorado, Florida, Georgia, Kentucky, North Carolina, Ohio, Oregon, and Tennessee. Other States have permitted transfers since at least the 1940's — Delaware, Indiana, Maryland, Michigan, Nevada, New Hampshire, New

Mexico, Rhode Island, South Carolina, and Utah.

Traditionally, the decision to transfer a youth to criminal court was made by a juvenile court judge and was based upon the individual circumstances in each case. Beginning in the 1970's and continuing through the 1990's, however, State legislatures increasingly moved young offenders into criminal court based on age and offense seriousness without the case-specific assessment offered by the juvenile court process. In half the States, laws have been enacted that exclude some offenses from juvenile court and a number of States have also expanded the range of excluded offenses. One-quarter of the States have given prosecutors the discretion to charge certain offenses either in juvenile or criminal court.

Judicial waiver is the most common transfer provision

In all States except Nebraska and New York, juvenile court judges may waive jurisdiction over a case and transfer it to criminal court. Such action is usually in response to a request by the prosecutor; however, in several States, juveniles or their parents may request judicial waiver. In most States, statutes limit waiver by age and offense.

Statutes establish waiver criteria other than age and offense

Most State statutes also limit judicial waiver to juveniles who are "no longer amenable to treatment." The specific factors that determine lack of amenability vary, but typically include the juvenile's offense history and previous dispositional outcomes. Many statutes instruct juvenile courts to consider the availability of dispositional alternatives for treating the juvenile and the time available for sanctions, as well as public safety and the best interests of the child when making waiver decisions. The waiver process must adhere to certain constitutional principles of fairness (see Supreme Court decisions earlier in this chapter).

Criminal courts often may return transferred cases to juvenile court or order juvenile sanctions

Several States have provisions for transferring "excluded" or "direct filed" cases from criminal court to juvenile court under certain circumstances. This procedure is sometimes referred to as "reverse" waiver or transfer. In many States juveniles tried as adults in criminal court may receive dispositions involving either criminal or juvenile court sanctions.

Many States have a combination of transfer provisions



Note: Analysis conducted 10/94; some provisions effective 1/1/95.

CITY & BOROUGH OF JUNEAU

POLICE DEPARTMENT

210 ADMIRAL WAY • JUNEAU, ALASKA 99801

RICHARD W. GUMMOW
CHIEF OF POLICE

Alaska's Capital City

BUSINESS (907) 586-2780
FAX (907) 463-4808

February 3, 1997

Senator Dave Donley
State Capitol
Juneau, Alaska 99801

Dear Senator Donley:

I have reviewed SB 63 and concur with it's scope and content. Please accept this correspondence as my endorsement of SB 63.

It is important to provide the youth of this state with clear and significant consequences concerning the use of a deadly weapon. We are all aware of the increase in youth violence that has surfaced in our nation within the past few years. Hopefully this bill will pass and provide a deterrent for the young people of Alaska.

I appreciate having the opportunity to voice my feelings in this matter. If I can be of any additional assistance, please don't hesitate to contact me.

Sincerely,



C.W. Worth
Police Officer

CW/jn

ALASKA STATE FIREFIGHTERS ASSOCIATION



January 31, 1997

Senator Dave Donley
Alaska State Legislature
SB63 Sponsor

Dear Senator Donley,

I have reviewed Senate Bill 63 and would like to thank you for your sponsorship of it.

Strengthening prosecution of repeat violent juvenile offenders will offer Alaska citizens protection that is overdue.

To protect minors under juvenile jurisdiction is one thing, but to have repeated offenses committed involving deadly weapons is quite another.

I believe, as you have stated, that passage of SB 63 would create a strong deterrent to continued misuse of deadly weapons by young criminals.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pat Eggers', with a long horizontal flourish extending to the right.

Patrick Eggers
President,
Alaska State Firefighters Association
Box 240282
Douglas, AK 99824



**ALASKA ASSOCIATION
FIRE AND ARSON INVESTIGATORS**

AAFAI

105 S. Willow • Kenai, Alaska 99611
(907) 283-4136 • FAX (907) 283-~~287~~ 8171

January 31, 1997

Senator Dave Donley
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

SUBJECT: SUPPORT FOR SENATE BILL 63

Senator Donley,

On behalf of the Alaska Association of Fire and Arson Investigators, please accept this letter of support for Senate Bill 63 that treats juvenile offenders with multiple convictions for violent offenses with deadly weapons as adults.

While SB63 provides an effective means to penalize offenders with multiple offenses as described in the Bill, it is hoped that the provisions for such a penalty will serve a dual purpose -- Prevention.

Respectfully Submitted,

Scott A. Walden,
Fire Marshal - City of Kenai
President - Alaska Association of Fire & Arson Investigators

STATE OF ALASKA

DEPARTMENT OF HEALTH AND
SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

TONY KNOWLES, GOVERNOR

P.O. 110630

JUNEAU, ALASKA 99811-0630

PHONE: (907) 465-3170

FAX: (907) 465-3397

RECEIVED APR 4 1997

April 1, 1997

The Honorable Robin Taylor
Chair, Senate Judiciary Committee
Alaska State Senate
State Capitol
Juneau, AK 99801-1182

Dear Senator Taylor,

This letter is in response to Senator Pearce's request during the Senate Judiciary committee hearing on March 27, 1997 for case information related to SB 63. I have identified those cases in FY 95 and 96 which would have meet the automatic waiver criteria of the bill. Bob Buttane has contacted the specific district probation offices responsible for the respective cases and I have summarized the case circumstances below. The offense referral which would have initiated an automatic waiver response under SB 63 is listed first.

Case #1

A 16 year old boy was referred to Youth Corrections on September 7, 1995 for an Assault in the Third Degree for recklessly causing injury to another student with a set of brass knuckles during an argument over stolen stereo speakers. This boy had a prior delinquency adjudication for an Assault in the Third Degree on July 25, 1994. During the 1994 incident, the boy pointed a loaded hand gun at another youth. A third youth attempted to disarm the boy and during the struggle, a single shot was fired into the air. No one was injured during the incident.

Case #2

A 17 year old boy was referred to Youth Corrections on November 20, 1995 for an Assault in the Third Degree for using the vehicle he was driving in a manner which recklessly caused fear of imminent serious physical injury to the driver of another vehicle. After further investigation by the Youth Corrections probation officer and a review from the Department of Law, the arrest charge was reduced to an Assault in the Fourth Degree and adjusted with informal action. This boy had been previously adjudicated delinquent for an Assault in the Third Degree on August 30, 1993. In the 1993 incident, the boy cut another person in the neck with a knife during a fight on a downtown street.

page 2

Case #3

A 17 year old boy was referred to Youth Corrections on October 13, 1994 for an Assault in the Third Degree. This boy had instigated a series of events where another youth attacked and seriously injured a third young person. Investigation found sufficient evidence to hold this 17 year old fully accountable for the offense, even though he was not the one who had physical contact with the victim. Youth Corrections and the Department of Law considered a discretionary waiver petition, but felt the overall case circumstances were not sufficient to support this action. The case was adjudicated as a felony assault and the boy was placed in a youth corrections institution. The boy had previously been adjudicated for an Assault in the Third Degree on February 1, 1993. In that incident, the boy stabbed another boy in the hand with a knife after the other boy decided he could be returned home from a camping trip if he sustained some type of serious injury.

Case #4

A 17 year old girl was referred to Youth Corrections on October 9, 1995 for an Assault in the Second Degree. After the girl had sex with an adult male, a dispute arose over the amount of money he was to have given to her. During the ensuing argument, the girl stabbed the man. There were numerous inconsistencies in both the girl and man's rendition of the facts. After further investigation and negotiation between the girl's attorney and Department of Law, the girl admitted to an Assault in the Fourth Degree offense as part of an agreement to be institutionalized at a youth facility. The girl had previously been adjudicated delinquent for an Assault in the Third Degree on July 21, 1992. In the 1992 incident, the girl threatened and attempted to kill her older brother with a kitchen knife during a domestic violence disturbance in the family home.

Case #5

A 17 year old boy was referred to Youth Corrections on November 28, 1994 for an Assault in the Third Degree. This boy had been arguing and fighting with a group of other young people when he produced a pistol and fired two shots into the air. The boy had previously been adjudicated delinquent on an Assault in the Third Degree charge on April 22, 1993. The 1993 incident involved a domestic violence dispute with a sibling. The boy discharged two rounds from a handgun during an argument. There were no injuries, however the boy stipulated to an institutional placement at a youth facility for the incident.

Senator Robin Taylor
April 1, 1997

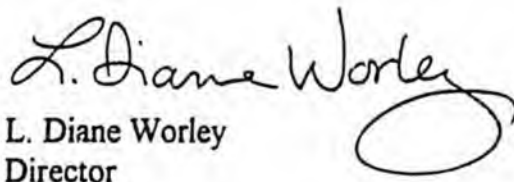
page 3

Case #6

A 17 year old boy was referred to Youth Corrections on February 8, 1995 for Assault in the Second Degree. Together with a co-defendant, this boy pulled another youth out of a vehicle and beat him in the head with a glass juice bottle because the victim had been pressuring the 17 year olds sister to engage in sexual intercourse. After review by Youth Corrections and the district attorney, the offense was reduced to Assault in the Third Degree. The boy had a prior adjudication for Assault in the Third Degree on April 20, 1993. During the 1993 incident, the boy, who was certified learning disabled by the school, became agitated in class. A teacher assistant directed him into a time out area. When the boy returned to the class room, he became agitated again and was asked to leave. As he walked out of the class room, he produced a pocket knife, opened it and waived the open blade in front of the teacher assistant's face. He inflicted no injury but did place her in fear of serious injury.

These are the total number of cases meeting the specific criteria of SB 63 during both fiscal years 1995 and 1996. I hope this provides you with the understanding of the specifics of these cases and assists you in your action regarding this bill. Please do not hesitate to contact me if you have additional questions.

Sincerely,


L. Diane Worley
Director

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 29, 1996

SUBJECT: Draft HCS CSSB 26(), relating to the automatic waiver of juvenile jurisdiction and prosecution of minors as adults for certain violations of laws by minors using firearms (Work Order No. 9-LS0252\G)

TO: Senator Dave Donley

FROM: Jack Chenoweth
Legislative Counsel 

Draft HCS CSSB 26() amends existing AS 47.10.010(e) to provide for an additional circumstance covering automatic waiver of juvenile jurisdiction. That circumstance is that the minor was at least 16 years of age at the time of the offense and is being arraigned on a charge:

that is a crime against a person punishable as a felony in which the minor is alleged to have used a deadly weapon in the commission of the offense and the minor was previously adjudicated as a delinquent or convicted as an adult . . . as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person . . . and the offense was punishable as a felony;

AS 47.10.990 supplies a definition for "crime against a person" by making a cross-reference to the offenses listed in AS 11.41. The reference to "crime against a person that is punishable as a felony" covers these offenses in AS 11.41 punishable as felonies:

Murder in the first degree (AS 11.41.100), punishable as an unclassified felony;

Murder in the second degree (AS 11.41.110), punishable as an unclassified felony;

Manslaughter (AS 11.41.120), punishable as a class A felony;

Criminally negligent homicide (AS 11.41.130), punishable as a class C felony;

Assault in the first degree (AS 11.41.200), punishable as a class A felony;

Senator Dave Don.

April 29, 1996

Page 3

to automatic waiver of juvenile jurisdiction to cover an additional 14 class B and class C felonies, namely:

Criminally negligent homicide (AS 11.41.130), punishable as a class C felony;

Assault in the second degree (AS 11.41.210), punishable as a class B felony;

Assault in the third degree (AS 11.41.220), punishable as a class C felony;

Stalking in the first degree (AS 11.41.260), punishable as a class C felony;

Custodial interference in the first degree (AS 11.41.320), punishable as a class C felony;

Sexual assault in the second degree (AS 11.41.420), punishable as a class B felony;

Sexual assault in the third degree (AS 11.41.425), punishable as a class C felony;

Sexual abuse of a minor in the second degree (AS 11.41.436), punishable as a class B felony;

Sexual abuse of a minor in the third degree (AS 11.41.438), punishable as a class C felony;

Incest (AS 11.41.450), punishable as a class C felony;

Unlawful exploitation of a minor (AS 11.41.455), punishable as a class B felony;

Robbery in the second degree (AS 11.41.510), punishable as a class B felony;

Extortion (AS 11.41.520), punishable as a class B felony; and

Coercion (AS 11.41.530), punishable as a class C felony.

JBC:pl:glc

96-143.plm

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

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Department of Education
State of Alaska

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

April 29, 1996

SUBJECT: Draft HCS CSSB 26(), relating to the automatic waiver of juvenile jurisdiction and prosecution of minors as adults for certain violations of laws by minors using firearms (Work Order No. 9-LS0252\G)

TO: Senator Dave Donley

FROM: Jack Chenoweth
Legislative Counsel



Draft HCS CSSB 26() amends existing AS 47.10.010(e) to provide for an additional circumstance covering automatic waiver of juvenile jurisdiction. That circumstance is that the minor was at least 16 years of age at the time of the offense and is being arraigned on a charge:

that is a crime against a person punishable as a felony in which the minor is alleged to have used a deadly weapon in the commission of the offense and the minor was previously adjudicated as a delinquent or convicted as an adult . . . as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person . . . and the offense was punishable as a felony; . . .

AS 47.10.990 supplies a definition for "crime against a person" by making a cross-reference to the offenses listed in AS 11.41. The reference to "crime against a person that is punishable as a felony" covers these offenses in AS 11.41 punishable as felonies:

Murder in the first degree (AS 11.41.100), punishable as an unclassified felony;

Murder in the second degree (AS 11.41.110), punishable as an unclassified felony;

Manslaughter (AS 11.41.120), punishable as a class A felony;

Criminally negligent homicide (AS 11.41.130), punishable as a class C felony;

Assault in the first degree (AS 11.41.200), punishable as a class A felony;

Assault in the second degree (AS 11.41.210), punishable as a class B felony;

Assault in the third degree (AS 11.41.220), punishable as a class C felony;

Stalking in the first degree (AS 11.41.260), punishable as a class C felony;

Kidnapping (AS 11.41.300), punishable, depending on specific circumstances, as an unclassified felony or as a class A felony;

Custodial interference in the first degree (AS 11.41.320), punishable as a class C felony;

Sexual assault in the first degree (AS 11.41.410), punishable as an unclassified felony;

Sexual assault in the second degree (AS 11.41.420), punishable as a class B felony;

Sexual assault in the third degree (AS 11.41.425), punishable as a class C felony;

Sexual abuse of a minor in the first degree (AS 11.41.434), punishable as an unclassified felony;

Sexual abuse of a minor in the second degree (AS 11.41.436), punishable as a class B felony;

Sexual abuse of a minor in the third degrees (AS 11.41.438), punishable as a class C felony;

Incest (AS 11.41.450), punishable as a class C felony;

Unlawful exploitation of a minor (AS 11.41.455), punishable as a class B felony;

Robbery in the first degree (AS 11.41.500), punishable as a class A felony;

Robbery in the second degree (AS 11.41.510), punishable as a class B felony;

Extortion (AS 11.41.520), punishable as a class B felony; or

Coercion (AS 11.41.530), punishable as a class C felony.

The existing statute provides for automatic waiver of juvenile jurisdiction for the eight crimes against a person set out in the above list that are punishable as unclassified felonies and class A felonies. This draft would expand the list of offenses that are potentially subject

Senator Dave Don.

April 29, 1996

Page 3

to automatic waiver of juvenile jurisdiction to cover an additional 14 class B and class C felonies, namely:

Criminally negligent homicide (AS 11.41.130), punishable as a class C felony;

Assault in the second degree (AS 11.41.210), punishable as a class B felony;

Assault in the third degree (AS 11.41.220), punishable as a class C felony;

Stalking in the first degree (AS 11.41.260), punishable as a class C felony;

Custodial interference in the first degree (AS 11.41.320), punishable as a class C felony;

Sexual assault in the second degree (AS 11.41.420), punishable as a class B felony;

Sexual assault in the third degree (AS 11.41.425), punishable as a class C felony;

Sexual abuse of a minor in the second degree (AS 11.41.436), punishable as a class B felony;

Sexual abuse of a minor in the third degree (AS 11.41.438), punishable as a class C felony;

Incest (AS 11.41.450), punishable as a class C felony;

Unlawful exploitation of a minor (AS 11.41.455), punishable as a class B felony;

Robbery in the second degree (AS 11.41.510), punishable as a class B felony;

Extortion (AS 11.41.520), punishable as a class B felony; and

Coercion (AS 11.41.530), punishable as a class C felony.

JBC:pl:glc

96-143.plr

S B

6 7

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: March 14, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/16/97

The JUDICIARY Committee considered:

CSSB 67(JUD)

CS FOR SENATE BILL NO. 67(JUD)

TRUTH IN SENTENCING

“An Act relating to the imposition of criminal sentences; and amending Rule 32.2, Alaska Rules of Criminal Procedure.”

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

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

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

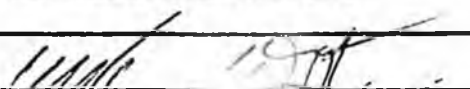
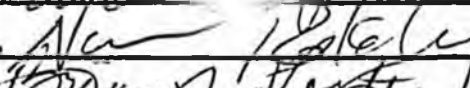
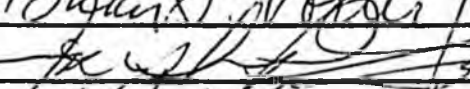
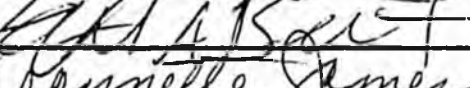
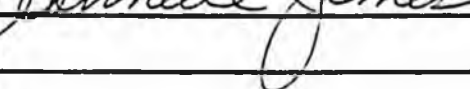
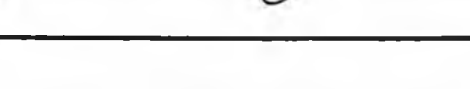
APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____

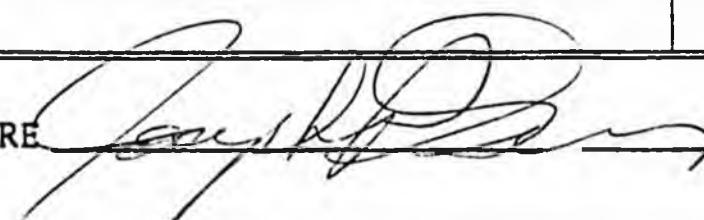
fiscal note(s) CORRECTIONS

zero fiscal note(s) _____

zero fiscal note(s) PUB. SAF. (DPS), PHS SAFETY (VIO. CRIME BD.) & DEPT OF LAW

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
 CROFT	✓			
 ROKEBERG	✓			
 PORTER	✓			
 GREEN				
 BERKOWITZ				✓
 JAMES	✓			

CHAIR'S SIGNATURE _____



1997 LEGISLATIVE SESSION

(S) Publish Date: 3-5-97

Revision Date: _____

Dept. Affected:

Public Safety

Title: Truth in Sentencing

DPS Statewide Support

Component:

Commissioner's Office

Sponsor: Rules Committee

Requestor: S Judiciary

COMPONENT SERIAL NO. 0523

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-
Coda 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: Sandy Perry-Provost, Special Assistant to the Commissioner

Phone: 465-4322

Division: Commissioner's Office

Date: 2/20/97

Approved by Commissioner: *Ronald L. Otte*

Date: 2/21/97

Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

No. 14

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL N **Bill Version:** CSB 67 (Jud)
(S) Publish Date: 3-5-97

Revision Date: _____ Dept. Affected: Public Safety
 Title: Truth in Sentencing BRU: Violent Crimes Compensation Board
 Component: _____
 Sponsor: Sen. Halford
 Requestor: S Judiciary COMPONENT SERIAL NO. _____

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	0	0	0	0	0	0

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

CHANGE IN REVENUES ()						
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS (Attach a separate page if necessary.)

The Violent Crimes Compensation Board approves of any vehicle which makes the victim more informed.

Prepared By: Nola K. Capp Phone: 465-3040
 Division: Violent Crimes Compensation Board Date: February 10, 1997
 Approved by Commissioner: *Ronald L. Ote* Date: 2/2/97
 Agency: Ronald L. Ote, Dept. of Public Safety

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FISCAL NOTE

No. 5

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: CSGB 67 (Jud)

(S) Publish Date: 3-5-97

Revision Date: _____ Dept. Affected: Department of Law
 Title: *An Act relating to the imposition of criminal BRU: Criminal Division
sentences; amending Rule 32.2, Ak Rules of Criminal Procedure Component: Criminal Division
 Sponsor: Senator Hallford
 Requester: Senate Judiciary 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)

The Senate Judiciary Committee Substitute for SB 67 includes a new section stating that the required approximate minimum term statement in the sentencing report is for informational purposes only, and cannot be used as a basis for review or appeal of the sentence imposed.

With this change, the Department of Law no longer anticipates any fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone: 465-5370
 Division: Administrative Services Division Date: 2/27/97
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce M. Botelho* Date: 2/27/97
 Agency: Department of Law

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
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Revision Date: 3-13-97

Title: Truth in Sentencing

Dept. Affected: Corrections

BRU: ALL

Sponsor: Senator Halford

Components: ALL

Requestor: Senate Finance Committee

Serial # 694.0

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

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	0.0	0.0	0.0

CAPITAL EXPENDITURES	***	***	***	0.0	0.0	0.0
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CHANGE IN REVENUES (1002)	650.0	650.0	650.0	0.0	0.0	0.0
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FUNDING: (THOUSANDS OF DOLLARS)

1002 Federal Receipts	650.0	650.0	650.0			
1003 GF Match	65.0	65.0	65.0			
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	715.0	715.0	715.0	0.0	0.0	0.0

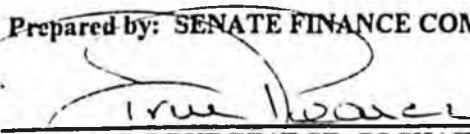
POSITIONS:

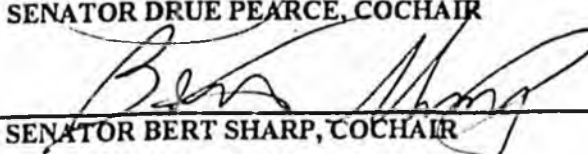
Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis

Prepared by: SENATE FINANCE COMMITTEE


SENATOR DRUE PEARCE, COCHAIR


SENATOR BERT SHARP, COCHAIR

Date: 3-13-97

Phone: 465-4993

Date: 3-13-97

Phone: 465-3004

Analysis of CSSB 67(JUD)

As amended, SB 67 should qualify the State of Alaska to apply for and receive federal Truth-in-Sentencing grants under the United States Department of Justice Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants program. These funds are to be used for prison construction or renovations. Congress has authorized funds for the grants through FY 2000. The amount that the State of Alaska would be eligible to receive depends upon how many other states qualify, inasmuch as appropriated funds are divided between qualifying states on the basis of their number of violent offenders. Had Alaska qualified this past year, its share would have been \$650,000 plus a required 10% state match. The Department of Corrections assumes that Congress will appropriate similar sums each year, but that Alaska's share may receive a slight decrease each year as more states qualify.

*** Should these federal receipts materialize they will be available for appropriation by the Legislature for future capital expenditures on correctional facilities.

Anne Carpeneti

8367

Approx dates of release

4338

§ 2 Margo Knuth drafted
on fed. level 85%
\$ tied to that

(h) quality for fed. \$

try to break out mandatory
parole

Margo Knuth

Feds came up @ "truth in sent."
- actually increase prison time
ie. No good time - no > 20% G.T.
Now so long as truthful about jail time
started out in diff. position
bocked into new position
we still don't like good time
① actual sentence
② supervised release
- Minnesota exception
then @ become 100% state
AK determinate sentencing state

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 14, 1997

SUBJECT: Sectional Summary of CSSB 67(JUD)
(Work Order No. 20-LS0137\L)

TO: Senator Rick Halford
Attn: Brett Huber

FROM: Gerald P. Luckhaupt 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill provides a short title.

Section 2 of the bill provides language requested by the Department of Corrections concerning authorized sentences.

Section 3 of the bill requires the approximate minimum term a defendant is expected to serve before being released, becoming eligible for mandatory, or becoming eligible for discretionary parole be included in the sentencing report that is required to be prepared under AS 12.55.025(a).

Section 4 of the bill clarifies that the identification of minimum terms in the sentencing report, as required under sec. 3, is for informational purposes only and does not give rise to any right of the defendant to any particular minimum term.

Section 5 of the bill amends Rule 32.2(e), Alaska Rules of Criminal Procedure, and requires judges at sentencing hearings to state the approximate minimum term a defendant must serve before being eligible for discretionary parole and mandatory parole.

Section 6 of the bill provides notice that secs. 3 - 4 amend a court rule.

Senator Rick Halford

April 14, 1997

Page 2

Section 7 of the bill provides that the bill only takes effect if secs. 5 and 6 receive the two-thirds majority vote of each house as required under the Constitution for amendments to court rules.

GPL:jdr

97-268.jdr



Official Business

Alaska State Legislature

Senate

**RICK
HALFORD**

State Capitol
Juneau, Alaska
99801-1182
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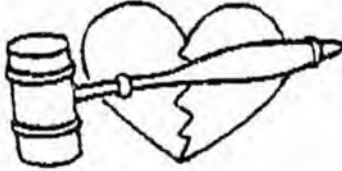
Sponsor Statement

SB 67 "The Truth in Sentencing Act of 1997"

When a felon is sentenced to a term of imprisonment the public often receives a false sense of security by believing the criminal will actually be incarcerated for the stated sentence. As a result of "good time", as well as mandatory and discretionary parole provisions, the actual sentence served is virtually guaranteed to be less than which is imposed by the judge.

If enacted, SB 67 would require that a victim of a crime, their family, as well as the public, be provided with an accurate statement of the period of the *minimum* period of time which must be served before the criminal is released. *At the very least*, the victim and their families, as well the public, deserve an honest and accurate assessment of the amount of time a criminal will actually be incarcerated. SB 67 would require that the judge do this.

The enactment of SB 67 would also allow the Department of Corrections to receive *up to* \$650,000 in federal funds which are available to states which meet federal truth in sentencing guidelines.

VICTIMS

for Justice 619 East Fifth Avenue • Anchorage, AK 99501
(907) 278-0977 • Fax: (907) 258-0740

February 3, 1997

The Honorable Senator Rick Halford
State Capitol Room 121
Juneau, Alaska 99801-1182

Re: SB 67

Dear Senator Rick Halford,

Victims for Justice supports legislation that **demands truth in sentencing**. Victims of crime are overwhelmed by the criminal justice system as information is often withheld from families because it might affect the integrity of the case. The victim must struggle with continuances and is often traumatized as they begin to understand the laws protect the defendant's rights at the expense of the victims'. The victim's day in court finally arrives and the victims are permitted to give their victim impact statement as they anxiously await the sentencing. When the judge metes out the sentence a sigh of relief! Then the victim again becomes victimized when they realize that the defendant only serves a third of the sentence the judge imposes. Why does the court have to give the lay person misinformation? Why isn't the court required to tell the sentence as it is meant. "Truth in sentencing would eliminate another trauma from the victim.

Sincerely,

A handwritten signature in cursive script that reads "Janice Lienhart".

Janice Lienhart
Executive Director

67
FEB 03 1997

Senator Rick Halford
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

30 January 1997

Re: Senate Bill 67

Dear Senator Halford,

Today, I received a Senate Majority Fax regarding your Truth in Sentencing Act of 1997. I heartily support your efforts in this regard. It has long been my belief that if the public realized just how little time convicted criminals were actually incarcerated for their crimes, that same public would be appalled. And being thus appalled, would then rise up in righteous indignation and demand the changes that would return us to some common sense and sanity in our criminal justice system.

While many believe that our criminal justice system is broke and needs fixing or replacing, I disagree. I say there is nothing wrong with our criminal justice system and the principal behind it. The problem lies in how it has been perverted, and in some of the people who apply it.

Our criminal justice system is based on the idea that sufficient punishment deters crime. But that will only work if punishment is, in actuality, sufficient. It must also be both swift and sure. These days, it is none of the above.

Your bill, if passed, will go a long way toward helping to insure that punishments are sufficient by shining the light of public scrutiny on the sentencing actions and decisions of judges. I suspect that they will be less likely to be lenient with the public looking over their shoulder.

Very Truly Yours,



Levi Gudde
P.O. Box 240487
Anchorage, Alaska 99524-0487

T.E. Brown
LCDR, USCG (Ret)
Palmer, AK 99645

September 30, 1996

Senator Rick Halford
P.O. Box 670190
Chugiak, AK 99567

RECEIVED
SEP 11 1996
Asst.....

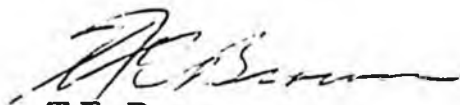
Dear Senator Halford,

The attached letter is pretty much self-explanatory. Perhaps it could have been better composed but it does express a Mothers' grief. To re-fresh your memory, this is about a man who took a girl out the Glenn Highway, stopped by the King Mountain Lodge, then proceeded on northbound, murdered the girl and dumped her body by the river.

This man should serve the entire 1,825 days of his 5 year sentence. To serve less would be an injustice to us all. After all, the crime was murder, although the Prosecution allowed him to plead down.

I am hopeful you will be able to forestall the early release of this convicted criminal.

Sincerely,



T.E. Brown