

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 86/2

9574 SENATE • JUDICIARY •

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES AND CORPORATIONS

TONY KNOWLES, GOVERNOR

P.O. BOX 110807  
JUNEAU, ALASKA 99811-0807  
Banking & Securities (907) 465-2521  
Corporation Section (907) 465-2530  
E-Mail: [DBSC@commerce.state.ak.us](mailto:DBSC@commerce.state.ak.us)  
Web Site: <http://www.state.ak.us/bsc/bsc.htm>

ANCHORAGE  
Corporation Information (907) 269-8140  
TDD: (907) 465-5437

April 20, 1998

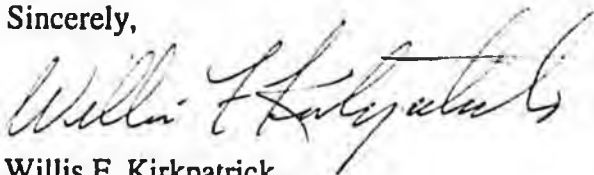
The Honorable Robin L. Taylor  
Alaska State Senate  
State Capitol, Room 30  
Juneau, AK 99801-1182

Dear Senator Taylor:

The division supports SB 232. There are 33 states that have adopted some form of legislation relating to electronic or digital signatures. They are Arizona, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, Oklahoma, Oregon, Rhode Island, Texas, Utah, Vermont, Virginia, Washington, and Wyoming. We believe that this legislation is necessary to allow Alaska businesses and government agencies to take advantage of technological advances in electronic commerce.

SB 232 removes statutory barriers to electronic commerce, provides legal recognition to electronic or digital signatures used in commerce, provides legal recognition for retention and retrieval of information in electronic media, and allows state agencies to adopt regulations necessary to verify authenticity of electronic signatures.

Sincerely,



Willis F. Kirkpatrick  
Director

WFK/mme618wfk.doc  
042098a

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SB232

Revision Date: \_\_\_\_\_  
Title: Electronic Records; Record Requirements

Department: Commerce and Economic Development  
BRU: Banking, Securities and Corporations  
Component: Banking, Securities and Corporations

Sponsor: Sen. Parnell  
Requestor: Senate Judiciary

COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/Mental Health						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 98) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Willis F. Kirkpatrick, Director  
Division: Banking, Securities and Corporations  
Approved by Commissioner: Deborah B. Sedwick  
Agency: Commerce and Economic Development

Phone: 465-2521  
Date: 4-20-98  
Date: \_\_\_\_\_

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**S B**

**2 3 7**

### Chapter 65. Interdepartment and Interagency Services.

[Repealed, § 69 ch 106 SLA 1986, as amended by § 27 ch 65 SLA 1987.]

### Chapter 66. Review of the Activities of Agencies, Boards and Commissions.

<p><b>Section</b></p> <p>10. Termination of state boards and commissions</p> <p>20. Agency programs</p> <p>30. Program identification</p>	<p><b>Section</b></p> <p>50. Legislative oversight</p> <p>60. Existing claims</p>
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Cross references. — For legislative findings related to this chapter, see § 1, ch. 149, SLA 1977.

#### Sec. 44.66.010. Termination of state boards and commissions. (a) Boards and commissions listed in this subsection expire on the date set out after each:

- (1) Alcoholic Beverage Control Board (AS 04.06.010) — June 30, 1998;
- (2) [Repealed, 1983 Initiative Proposal No. 2, § 6.]
- (3) Board of Parole (AS 33.16.020) — June 30, 1997;
- (4) Alaska Public Utilities Commission (AS 42.05.010) — June 30, 1999;
- (5) [Repealed, § 20 ch 110 SLA 1981.]
- (6) [Repealed, § 63 ch 21 SLA 1985.]
- (7) [Repealed, § 16 ch 161 SLA 1984.]
- (8) [Repealed, § 33 ch 23 SLA 1995.]
- (9) [Repealed, § 2 ch 97 SLA 1986.]
- (10) Alaska Commission on Aging (AS 44.21.200) — June 30, 2000;
- (11) Council on Domestic Violence and Sexual Assault (AS 18.66.010) — June 30, 1998;
- (12) [Repealed, § 33 ch 23 SLA 1995.]
- (13) [Repealed, § 21 ch 6 SLA 1993.]
- (14) Special Education Service Agency (AS 14.30.600) — June 30, 2004;
- (15) Alaska Tourism Marketing Council (AS 44.33.700) — December 30, 2000;
- (16) [Repealed, § 33 ch 23 SLA 1995.]
- (17) Citizens' Review Panel for Permanency Planning under AS 47.14.200 — June 30, 1997;
- (18) Board of Storage Tank Assistance (AS 46.03.360) — June 30, 1996;
- (19) Hazardous Substance Spill Technology Review Council (AS 46.13.110) — June 30, 1995.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

A commission scheduled for termination under this chapter may be continued or established by the legislature for a period not to exceed four years. (§ 3 ch 149 SLA 1978; am § 3 ch 101 SLA 1978; am § 10 ch 179 SLA 1978; am § 3 ch 44 SLA 1980; am § 11 ch 115 SLA 1980; am § 11 ch 131 SLA 1980; am § 11 ch 136 SLA 1980; am § 3 ch 172 SLA 1980; am § 1 ch 32 SLA 1981; am § 1 ch 64 SLA 1981; am § 4 ch 79 SLA 1981; am § 101 SLA 1981; am § 20 ch 110 SLA 1981; am E.O. No. 48, § 5 (1981); am § 1 ch 1982; am § 31 ch 142 SLA 1982; am § 3 ch 52 SLA 1983; am § 1 ch 20 SLA 1983; am § 1 ch 74 SLA 1983; am § 1 ch 76 SLA 1983; am 1983 Initiative Proposal No. 2, § 6; am § 1 ch 161 SLA 1984; am § 1 ch 163 SLA 1984; am § 63 ch 21 SLA 1985; am § 1 ch 1985; am § 1 ch 36 SLA 1985; am § 1 ch 38 SLA 1985; am § 6 ch 88 SLA 1985;

interested in the proceedings of the agency, who may be factually interested in the agency, and who is appearing before such agency, is a party for the purpose of taking an appeal. City of Kenai v. State, Pub. Serv. Comm'n, 1760 (Alaska 1987).

AS 15.15.330 not in effect. — Regulations promulgated pursuant to AS 15.15.330 are exempt from the requirements of the Administrative Procedure Act (AS 44.62) by AS 15.15.40 and this section. Coghill v. State, 1760 (Alaska 1987).

Administrative Commission must be established in accordance with chapter 66. — It is the policy of the Alaska Transportation Commission to transfer of permits consistent with the provisions of the Administrative Procedure Act (AS 44.62). Mukluk Freight Lines v. State, 516 P.2d 408 (Alaska 1973).

Priority of use between board of fisheries did have the priority of use between recreational fisheries of the salmon stocks, the policy and option established by regulations which should be consistent with the provisions of the Alaska Fisherman's Coop. Ass'n v. State, 803 P.2d 391 (Alaska 1990).

Fisheries policy on management of fisheries within the definition of "fisheries" in paragraph (a)(3) and, therefore, implemented pursuant to the Administrative Procedure Act but had not been implemented to further that policy. Board's authority and "conserve" and "develop" regulations was upheld. Gilbert v. State, 803 P.2d 391 (Alaska 1990).

Alaska, Inc. v. Department of Fish and Game, 717 P.2d 189 (Alaska 1986).

Alaska Prod. Comm'n v. State, 726 P.2d 100 (Alaska 1986).

Administrative Commission v. State, 726 P.2d 100 (Alaska 1986).

Alaska, Inc. v. Department of Fish and Game, 717 P.2d 189 (Alaska 1986).

Sectional Analysis  
CS SB 237: Domestic Violence & Sexual Assault  
(HESS)

**Section 1:**

Amends the Code of Criminal Procedure, Sentencing and Probation statute to ensure that if a defendant is to participate in a batterers' program, that program will meet the standards set by and the program approved by the Department of Corrections under AS 44.28.020(b).

**Section 2:**

Amends the Domestic Violence and Sexual Assault, Protective Orders statute to ensure that if a respondent is to participate in a batterers' program, that program will meet the standards set by and the program approved by the Department of Corrections under AS 44.28.020(b).

**Section 3:**

Amends the Parole Administration Act to ensure that if a prisoner is to participate in a batterers' program, that program will meet the standards set by and the program approved by the Department of Corrections under AS 44.28.020(b).

**Section 4:**

Amends the duties of the Department of Corrections to ensure that batterers' programs, that program will meet the standards set by and the program approved by the Department of Corrections under AS 44.28.020(b).

**Section 5:**

Extends the Council on Domestic Violence and Sexual Assault by four years, the maximum extension allowed under AS 44.66.010(c).

**Section 6:**

Amends Rule 404(b)(3) to ensure that if a defendant relies on a defense of consent, evidence of other sexual assaults are admissible.

**Section 7:**

Amends Rule 404(b)(4) Rules of Evidence to make it clear to judges that there doesn't have to be a previous conviction, only that the acts were committed. This change allows the prosecution to produce evidence of previous acts of domestic violence.

**Section 8:**

The Court Rule changes apply only to proceedings held on or after the immediate effective date.

**Section 9:**

Court referrals, protective orders, and probation conditions that now must meet the standards and approved programs under AS 44.28.020(b) begin January 1, 1999.

**Section 10:**

Immediate effective date for the rest of the sections.



Official Business

# Alaska State Legislature

## SENATE

State Capitol  
Juneau, AK 99801-1182

### Senate Labor & Commerce Committee

#### Sponsor Statement

#### SB 237: COUNCIL DOMESTIC VIOLENCE & SEXUAL ASSAULT

The Council was established in the Department of Public Safety in 1981 by AS 18.66. SB 237 extends the Council another 4 years to June 30, 2002.

The Council's tasks include the following duties:

- in consultation with authorities, develop, implement, maintain, and monitor domestic violence, sexual assault, and crisis intervention and prevention programs
- coordinate services provided by certain state agencies and community groups dealing with domestic violence, sexual assault, crisis intervention and prevention
- provide technical assistance as requested by state agencies and community groups
- develop standardized data collection system
- receive and dispense state and federal money and award grants and contracts
- make an annual report to the governor.

The 1994 and 1997 audits point out problems with data collection: in 1994, the Legislative Auditor was concerned about delays in posting data and the accuracy of the data; in 1997 the auditor's concerns continue to be with delays. However, the Council has made strides in automating and standardizing the data. The FY 96 and FY 97 reports, which are based on the data, are not yet complete.

The Senate Labor and Commerce Committee introduced the bill to ensure the extension could be considered by the Legislature.

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

P.O. BOX 111200  
JUNEAU, ALASKA 99811-1200  
PHONE: (907) 465-4358  
FAX: (907) 465-3627  
OFFICE ADDRESS: 450 WHITTIER ST.

April 28, 1998

RECEIVED

APR 28 1998

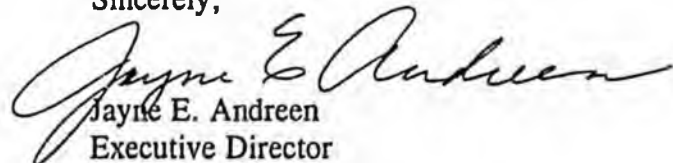
Ans'd.....

Senator Robin Taylor  
Alaska State Legislature  
State Capitol, Mail Stop 3100  
Juneau, Alaska 99801-1182

Dear Senator Taylor:

I am writing on behalf of the Council on Domestic Violence and Sexual Assault to request a hearing in Senate Judiciary on SB 237. This legislation extends the Council's sunset legislation for an additional four years. Because of the strong coordination and technical assistance role that the Council fulfills in Alaska on domestic violence and sexual assault, as well as the funding of local services for victims of these crimes, the Council is confident that you understand the importance of the Council's continuation.

Sincerely,

  
Jayne E. Andreen  
Executive Director

cc: Senator Loren Leman  
Representative Bill Hudson  
Representative Kim Elton  
Council Members


ALASKA NETWORK ON  
DOMESTIC VIOLENCE AND SEXUAL ASSAULT

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130 Seward Street, Room 501  
Juneau, AK 99801

Phone: 907.586.3650  
FAX: 907.463.4493

To: Senator Robin Taylor, Chairman  
Senate Judiciary Committee  
And Committee Members

From: Lauree Hugonin, Executive Director 

Date: 4/29/98

Re: Scheduling SB237 in Senate Judiciary

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Dear Senator Taylor:

The Network would appreciate your assistance in passing the CDVSA Sunset Extension bill, SB237 this session. It is waiting a hearing in Senate Judiciary. We realize at this time of year how difficult it is to make scheduling decisions and hope you are able to find a way to hear the bill as soon as possible.

In conversations with your staff, I understand that SB237 may not be seen as necessary this session because the Council has a winddown year and the extension could be dealt with next year. The Network is very concerned with that concept. Next year is the year for local community-based programs to reapply for their two -year grants, and the Council has other on-going projects that we would not want to see put on hold.

The Network appreciates the continued support you have shown for domestic violence and sexual assault intervention services in Alaska. Please carefully consider our request, schedule SB237, and allow it to move from your committee.

Thank you. Please call me if I can provide any additional information or be of assistance.

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO:** No. 1  
 Bill Version: CS SB 237(HES)  
 (S) Publish Date: 4/7/98

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Extend CDVSA BRU: CDVSA  
 Component: CDVSA  
 Sponsor: Labor and Commerce  
 Requestor: (S) HESS COMPONENT SERIAL NO. \_\_\_\_\_

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

	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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 Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 99) 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 is sunset legislation that extends the Council through June 30, 2002. The Council's FY99 Budget is contained in the Governor's operating budget. It totals \$8,816.5.

**Expenses:**

Personal Services - \$374.1, Travel - \$223.8, Contractual - \$231.9, Supplies - \$9.2, Grants - \$7,977.5.

**Revenue:**

Federal Receipts - \$2,368.6, General Funds and PFD - \$4,769.0, Other - \$1,678.9.

Prepared By: Jayne E. Andreen Phone: 465-4356  
 Division: CDVSA Date: 2/4/98  
 Approved by Commissioner:  Date: 3/2/98  
 Agency: Ronald L. Otte, Dept. of Public Safety

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**SB**

**242**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 1/16/98

FURTHER: Finance

Date of 5-Day Notice: 1-22-98  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 1-26-98

Judiciary Committee considered SENATE BILL NO. 242

"An Act providing for the forfeiture of good time sentence credits of sex offenders who fail to successfully complete sex offender treatment programs."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
Mike Miller	✓	Reduce	✓		
CHAIR: <i>John T. ...</i>	✓	CHAIR:			

**NEW FISCAL NOTE(S):**

#	Department	Date	Zero	Fiscal
#1	DOC	1/24/98		73.0
#2	DOA - OPA	1/23/98	0	
#3	DOA - PDO	1/26/98	0	

**PREVIOUS FISCAL NOTE(S):\***

#	Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

No. 1  
 Bill Version: SB242  
 (S) Publish Date: 1-27-98

STATE OF ALASKA  
 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) \_\_\_\_\_ Dept. Affected Corrections  
 Title An Act providing for the forfeiture of good time BRU Administration and Operations  
sentence credits of sex offenders who fail to complete... Component Institution Director's Office  
 Sponsor Senator Ward  
 Requester Senator Judiciary Component Serial No. #1781

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	73.0	107.0	107.0	107.0	107.0	107.0
<b>TOTAL OPERATING</b>	<b>73.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF	73.0	107.0	107.0	107.0	107.0	107.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>73.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This proposed legislation would require the Commissioner to forfeit all of a prisoners good time credits if the offense is a sex offense, and the prisoner failed to successfully complete court ordered treatment. Current AS 33.16.220(a)(2) allows the Board of Parole to revoke parole if the the prisoner has violated an order of the court to participate in or comply with a treatment plan.

In calendar year 1997, thirty-three prisoners failed to complete or participate in the sex offender treatment plan as ordered by the court. The Board of Parole revoked parole in all but two cases. The average amount of time revoked was 450 days. This fiscal note is based on the assumption that two individuals a year would have their good time forfeited and would serve and additional 450 days.

Two prisoners X average cost of care of \$100.07 a day X 450 days = 90.0 thousand dollars. (73.0 in FY99 and 17.0 in FY00) FY00 = 17.0 from previous fiscal year forfeitures in addition to 90.0 in new forfeitures. This fiscal note does not include inflation.

Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date 1/21/98  
 Approved by Commissioner Margaret M. Pugh Margaret M. Pugh Date 1-24-98  
 Agency Department of Corrections

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FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

No. 2  
Bill Version: SB 242  
(S) Publish Date: 1-27-98

Revision Date: (Note if correction) Department Affected: Administration  
Title: "An Act providing for the forfeiture of good time sentence credits of sex offenders who fail to successfully complete..." BRU: Office of Public Advocacy  
Sponsor: Sen. Ward Component: Office of Public Advocacy  
Requestor: (S) JUD COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 98) cost: \$ none

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Department of Administration.

Prepared by: Brant McGee, Director Phone: 269-3501  
Division: Office of Public Advocacy Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer Date: 1/23/98  
Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

No. 3  
Bill Version: SB 242  
(S) Publish Date: 1-27-98

Revision Date: (Note if correction) \_\_\_\_\_  
Title: "An Act providing for the forfeiture of good time sentence credits of sex offenders who fail to successfully complete...."  
Sponsor: Sen. Ward  
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 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 98) cost: \$ none

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would allow forfeiture of prisoners' good time credits for failing to successfully complete sex offender treatment. The bill would set up a procedure much the same as a current one in AS 33.16.220. Under AS 33.16.220 the parole board can take away all of a prisoner's good time for failing to participate in sex offender treatment or any other treatment program ordered by the court. The Public Defender Agency is not appointed to represent prisoners in prison disciplinary proceedings. However, we are appointed in Criminal Rule 35.1 applications. If this bill passes, I would anticipate that prisoners would file Rule 35.1 applications, claiming that their due process or equal protection rights are being violated, and they are unlawfully held in custody under this law.

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

Phone: 264-4400  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 1/26/98

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**FISCAL NOTE**

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. SB 242**

Revision Date: (Note if correction)  
 Title: "An Act providing for the forfeiture of good time sentence credits of sex offenders who fail to successfully complete...."  
 Sponsor: Sen. Ward  
 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 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 98) cost: \$ none

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill would allow forfeiture of prisoners' good time credits for failing to successfully complete sex offender treatment. The bill would set up a procedure much the same as a current one in AS 33.16.220. Under AS 33.16.220 the parole board can take away all of a prisoner's good time for failing to participate in sex offender treatment or any other treatment program ordered by the court. The Public Defender Agency is not appointed to represent prisoners in prison disciplinary proceedings. However, we are appointed in Criminal Rule 35.1 applications. If this bill passes, I would anticipate that prisoners would file Rule 35.1 applications, claiming that their due process or equal protection rights are being violated, and they are unlawfully held in custody under this law.

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

Phone: 264-4400  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 1/26/98

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# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SB 242

Revision Date (Note if correction) _____	Dept. Affected <u>Corrections</u>
Title <u>An Act providing for the forfeiture of good time</u>	BRU <u>Administration and Operations</u>
<u>sentence credits of sex offenders who fail to complete...</u>	Component <u>Institution Director's Office</u>
Sponsor <u>Senator Ward</u>	
Requester <u>Senator Judiciary</u>	Component Serial No. <u>#1781</u>

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	73.0	107.0	107.0	107.0	107.0	107.0
<b>TOTAL OPERATING</b>	<b>73.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	73.0	107.0	107.0	107.0	107.0	107.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>73.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>	<b>107.0</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This proposed legislation would require the Commissioner to forfeit all of a prisoners good time credits if the offense is a sex offense, and the prisoner failed to successfully complete court ordered treatment. Current AS 33.16.220(a)(2) allows the Board of Parole to revoke parole if the the prisoner has violated an order of the court to participate in or comply with a treatment plan.

In calendar year 1997, thirty-three prisoners failed to complete or participate in the sex offender treatment plan as ordered by the court. The Board of Parole revoked parole in all but two cases. The average amount of time revoked was 450 days. This fiscal note is based on the assumption that two individuals a year would have their good time forfeited and would serve an additional 450 days.

Two prisoners X average cost of care of \$100.07 a day X 450 days= 90.0 thousand dollars. (73.0 in FY99 and 17.0 in FY00) FY00 =17.0 from previous fiscal year forfeitures in addition to 90.0 in new forfeitures. This fiscal note does not include inflation.

Prepared by <u>Bruce Richards</u>	Phone <u>465-3307</u>
Division <u>Commissioner's Office</u>	Date <u>1/21/98</u>
Approved by Commissioner Margaret M. Pugh <u>Margaret M. Pugh</u>	Date <u>1-24-98</u>
Agency <u>Department of Corrections</u>	

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## FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SB 242

Revision Date: (Note if correction)  
 Title: "An Act providing for the forfeiture of good time sentence credits of sex offenders who fail to successfully complete...."  
 Sponsor: Sen. Ward  
 Requestor: (S) JUD

Department Affected: Administration  
 BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 COMPONENT SERIAL NO. 43

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 98) cost: \$ none

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

There is no fiscal impact to the Department of Administration.

Prepared by: Brant McGee, Director  
 Division: Office of Public Advocacy

Phone: 269-3501  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 1/23/98

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# Alaska State Legislature

## Senate

**JERRY WARD**

State Capital  
Juneau, AK 99801-1182  
Phone (907) 465-4940  
Fax (907) 465-3766

716 W. 4th Ave., Ste. 450  
Anchorage, AK 99501-2133  
Phone (907) 258-8183  
Fax (907) 258-0820

145 Main Street Loop  
Kenai, AK 99611  
Phone (907) 283-7996  
Fax (907) 283-3075

### Sponsor Statement

#### SB 242 – FORFEITURE OF “GOOD TIME” SENTENCE CREDITS

The Department of Corrections provides for the deduction of one-third of the term of imprisonment if the prisoner follows the rules of the correctional facility in which the prisoner is confined. Currently, the Department of Corrections allows accumulation of “good time” credits even though an individual has not completed the court ordered treatment program. Typically, the Department of Corrections does not begin treatment programs until late in the term of a prisoners’ incarceration, thereby making it possible for the prisoner to be released prior to completion of the court ordered treatment program.

This legislation provides for the forfeiture of “good time” sentence credits of sex offenders who fail to successfully complete a rehabilitation or sex offender treatment program ordered by the sentencing court.

The sex offender treatment program, like any other rehabilitation program, is imposed to help prisoners learn to manage their emotions and urges so that when they are released back into society, they will not re-offend. Certainly, there is no guarantee that if the program is completed by the offender that said offender will not re-offend. However, if the prisoner does not complete the court ordered treatment, he or she should not be rewarded with “good time” credits.

Recent headlines have been awash with stories of convicted sex offenders who have not completed court ordered treatment while incarcerated, and once released, go on to re-offend. Many of these offenders were released early because of an accumulation of “good time” credits.

**SB**

**254**



Official Business

# Alaska State Legislature

## SENATE

Labor & Commerce Committee

State Capitol  
Juneau, AK 99801-1182

### Sponsor Statement – CS for Senate Bill 254 (L&C)

“An Act relating to the exemption from levy, execution, garnishment, attachment, or other remedy for the collection of debt as applied to a permanent fund dividend, and to the fee for processing a claim on a dividend.”

Senate Bill 254 amends Title 43, Chapter 23 regarding the use of permanent fund dividends to satisfy debts. Existing law at AS 43.23.065 provides that 45 percent of a person's permanent fund dividend is exempt from garnishment, attachment, or any other remedy to collect on financial obligations when the debtor is in a state of default. Therefore, debtors in Alaska can under most circumstances shield 45 percent of their dividend check from persons or businesses seeking to collect.

There currently are some exceptions to this general rule: the 45 percent exemption does not apply to child support obligations, court ordered fines, claims on defaulted Alaska student loans, or any debt owed to an agency of the state. Under these and a few other narrowly defined circumstances, the state requires that 100 percent of the dividend be made available to meet the debtor's obligation.

The existing PFD garnishment provisions are inequitable and contradictory. The state can seize the entire amount of a dividend to satisfy its claims, but private parties such as small businesses, credit unions, landlords, or car dealers are limited in the amount they can garnish. The message sent, whether intentional or not, is that when contractual obligations are violated, agencies of the state have a greater right than private parties to settle their outstanding claims.

As originally introduced, Senate Bill 254 completely eliminated the dividend exemption, allowing state agencies and private parties alike to collect 100 percent. However, an amendment approved by the Labor & Commerce Committee restored the exemption but lowered it from 45 percent to 30 percent. Thus, the amended bill allows private parties to collect 70 percent of a dividend check, while state agencies continue to collect 100 percent. In addition, the Labor & Commerce Committee approved a fee for processing garnishments of dividend checks. The fee is equal to 5 percent of the total value of the dividend check and is deposited into the general fund. Currently the Permanent Fund Division charges only \$2 for each garnishment.

SB 254 narrows the gap between what state agencies and businesses are able to collect. When businesses are unable to recover monies lawfully owed them by persons in default, the losses are recovered by passing the costs on to honest, law-abiding consumers. The current 45 percent exemption for dividends is essentially a “hidden tax” on the majority of financially responsible consumers. Defaulters get to keep their dividend checks, while the majority of Alaskans end up providing an involuntary subsidy for their financial irresponsibility.

Prepared by Mike Pauley, Staff Aide to Senator Loren Lemman (465-3841)  
Last updated: February 13, 1998

# SENATE COMMITTEE REPORT

DATE: 2/11/98

FURTHER:

DATE TURNED  
IN TO OFFICE: 2-17-98

Judiciary Committee considered

SENATE BILL NO. 254

"An Act relating to levy, execution, garnishment, attachment, or other remedy for the collection of debt as applied to a permanent fund dividend."

and recommends:

- be replaced with CS For SB 254 ( JUD )
- adopt previous CS (          )
- attached amendment(s)
- adopt Letter of Intent by          Committee
- further referral to the          Committee

- Senate Bill:
- same title
  - new title
- House Bill:
- same title
  - technical title
  - new: SCR#

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>		<i>Sean Karmell</i>	✓		
		<i>Mike Dillan</i>	✓		
		<i>Chance</i>	✓		
CHAIR: <i>[Signature]</i>	✓	CHAIR:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal
<i>[Signature]</i>		←	
		<del>*</del>	

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal
REVENUE	2-16-98	*	\$

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 2  
Version: CSSB 254(JUD)  
(S) Publish Date: 2-17-98

Revision Date: February 16, 1998 Dept. Affected: Revenue  
Title: Levy of Permanent Fund Dividends BRU: Revenue Operations  
Component: Permanent Fund Dividend  
Sponsor: (S) L&C  
Requestor: (S) JUD COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( ) 1005</b>	<b>3,434.0</b>	<b>3,434.0</b>	<b>3,434.0</b>	<b>3,434.0</b>	<b>3,434.0</b>	<b>3,434.0</b>

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1001 CBRF						
1048 University of AK receipts						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year cost \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Nanci A. Jones, Director  
Division: Permanent Fund Dividend  
Approved by Commissioner: Wilson L. Condon  
Agency: Revenue

Phone: (907) 465-2323  
Date: February 16, 1998  
Date: February 16, 1998

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Alaska Department of Revenue  
Permanent Fund Dividend Division

Fiscal Analysis of CS SB 254(L&C)

This amended bill reduces the exemption allowed on an individual's Permanent Fund Dividend (PFD) that was protected from levy, execution, garnishment, attachment, or any other remedy for the collection of debt, from 45% to 30%. Cumbersome wording regarding the timing of payment is also eliminated.

Section two of the bill removes the authority for PFD to charge an administrative fee for claims on PFD's (leaving the authorization to charge a fee for voluntary assignments). Currently this fee is \$2 per claim and generates approximately \$150.0 per year in program receipts to cover charges incurred for processing over 83,000 claims and assignments. Only about 3,000 of these are voluntary assignments.

Section three is a new section added to impose a 5% administrative fee to be collected and deposited in the general fund to cover the administrative costs incurred by the department, the court system, and other state agencies for processing a claim on a PFD. We estimate the revenue to be generated for each year based on the following.

Involuntary Claims on PFD's

52,830 applicants	(number of applicants w/one or more requests)
\$1300 x 5% fee = \$65	(5% fee on 1997 dividend amount)

52,530 @ \$65 = \$3,433,950 (total revenue generated)

Total to GF Program Receipts 1005	<u>\$ 3,434.0</u>
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# 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

February 9, 1998

**SUBJECT:** Administrative fee for processing claims on permanent fund dividends (CSSB 254(L&C))

**TO:** Senator Loren Leman  
Attn: Annette Kreitzer

**FROM:** Tamara Brandt Cook  
Director *TBC*

Here is a draft of a bill lowering the permanent fund dividend exemption from 45 to 30 percent and changing the fee charged to administer claims on dividends to 5 percent of the dividend itself. The original proposal would not have imposed the higher administrative fee on claims on dividends for child support or for scholarship loan payments. I believe that singling out two types of debtors for favorable treatment with respect to administrative fees would create an equal protection problem for this bill.

Under the state equal protection clause, a statute is evaluated on a sliding scale under which the goal of the legislation and the importance of the individual rights affected are considered. (*State v. Anthony*, 810 P.2d 155 (Alaska 1991)) As the importance of the individual rights affected increases, the burden increases on the state to show that the state's goal justifies the intrusion on the individual's interest in equal treatment.

In this case, charging a lower administrative fee to two classes of creditors means that they will have the benefit of a greater reduction in their indebtedness, if the entire dividend is taken, or a greater amount for themselves, if the claim is for only part of a dividend, while other creditors will not have that benefit.

An individual's interest in receiving a permanent fund dividend is accorded a low level of protection under the state equal protection clause because only an economic interest is implicated and that interest is not based on the need of the applicant. (*Underwood v. State*, 831 P.2d 322 (Alaska 1994)) However, even minimum scrutiny under the state constitution may be more demanding than under the federal constitution. (*State Department of Revenue v. Cosio*, 858 P.2d 621 (Alaska 1993)) It is possible that, in applying a minimum scrutiny equal protection test, the court would find that a sufficiently rational basis exists for treating some creditors differently from other creditors, but the basis for the distinction does not occur to me.

Senator Loren Leman  
February 9, 1998  
Page 2

Lastly, please note that two recent claims provisions, AS 43.23.068 - claims on defaulted public assistance overpayment, and AS 43.23.066 - claims on reimbursement for court-ordered treatment, were never added to the fee provision in AS 43.23.071. This draft corrects that apparent oversight.

TBC:glc:jr  
98-064.glc

**John E. Low**  
**Post Office Box 90608**  
**Anchorage, Alaska 99509-0608**

February 12, 1998

The Honorable Robin Taylor  
Chairman, Senate Judiciary Committee  
State Capitol  
Juneau, Alaska 99801

Dear Senator Taylor:

I am writing to express my support for Senate Bill 254. I strongly urge you and your colleagues to vote in favor of this legislation.

My reasons for supporting this bill go back to an unpleasant experience that began in 1995. I Own a four-plex apartment in Anchorage with my mother. We had one tenant living there with her dog and two cats when we purchased the property in 1993.

In September of 1995 I noticed several cats in the apartment and I had received complaints of smells coming from her unit. When I asked her about the cats she said she stated she had six of them living there. This prompted me to give her notice of my intent to terminate our rental agreement.

When I reclaimed the unit on Nov. 1st, I found eight abandoned cats. The apartment was filled with pet waste. The kitchen window had been left open for the cats to come and go as they pleased. Other damage included shredded walls from cat claws and urine soaked carpets along with underlying wood floors. All carpets, vinyl, even the refrigerator and oven had to be replaced due to cat waste.

The clean up process was time consuming and discouraging. I worked every day of November and most every day of December to prepare for a new tenant. I used three ozone machines to eliminate the smell, talked to every possible expert and analyzed every option. I could not resolve it the problem the smell still returns each summer. It was the most frustrating job I ever undertook, and my time for repairs totaled more then two hundred hours.

I tried to contact the former tenant responsible for the damage. She hung up on me, and I have never seen her again. Since she would not talk, I wrote a letter specifying the damage she caused. This was also ignored. Since her security deposit was only \$450, I began the long process of suing her. I filed a complaint and had her served. Once again, she did not respond. I estimate the total damage more then \$8000.00. I asked for a judgment of \$5000, which was the small claims limit at that time. The former tenant

finally communicated via telephone at the default judgment hearing and admitted to the liability of \$5,000.

Then I proceeded to collect by hiring an investigator. I paid a process server the \$75. to seize any bank account in Anchorage held by the former tenant. She had no bank account. I then discovered I could not garnish her wages because of the generous exemptions that state law allows for debtors who have judgments against them.

It seemed my only hope was to seize her Permanent Fund Dividend check, which I have done twice so far. It's a small help but gains very little because of the exemptions that also apply to this area. Assuming that the amount of the annual dividend check remains reasonably stable, and assuming the debtor does not leave the state, it will take more than thirteen years to collect this debt. If the Legislature eliminates the exemption to on dividend checks, I could collect the debt in approximately 6 and 1/2 years.

This apartment is the only rental property my mother and I own. Because of what one irresponsible person did, we could not draw any income from it for eleven months. I trusted her not to ruin my property and she violated that trust. I urge you to help change this law so I can be justly compensated for my loss.

Sincerely,

John Low

**McNall & Associates, P.C.  
Attorneys**

William L. McNall  
H. Frank Cahill  
Sandra J. Wicks

921 West Sixth Avenue  
Suite 100  
Anchorage, Alaska 99501-2044  
Telephone (907) 276-2535  
Telecopier (907) 279-8527

Francine D. Harbour  
Of Counsel

Thomas Brown  
Legal Assistant

January 28, 1998

JAN 28 1998

VIA FAX 1-907-465-3810

Senator Loren Leman  
Attn: Annette Kreitzer  
State Capitol Room 115  
Juneau, AK 99801

Re: Senate Bill 254  
Increasing Garnishment of PFDs

Dear Senator Leman:

A significant part of this law office's practice involves representing creditors, and we levy on a large number of permanent fund dividends each year on behalf of our clients. I cannot support your proposed legislation which completely eliminates the existing exemption for 45% of an individual's permanent fund dividend. Under your bill, a creditor could levy upon 100% of a debtor's permanent fund dividend. In my view, many debtors will refuse to apply for a permanent fund dividend if they will not receive any cash from it. Notwithstanding that the debtor obtains a significant benefit by having the permanent fund dividend pay off his or her debt, I think it likely that a significant number of debtors would "cut off their nose to spite their face" by refusing to complete an application if they are confident that they will not receive any money directly. I recognize that my views are not in conformity with the majority of the opinions expressed at a meeting in your office several months ago; effective collection, I believe, requires a longer view.

Very truly yours,

MCNALL & ASSOCIATES, P.C.

By:   
H. Frank Cahill

HFC/sb

# National Bank of Alaska



Consumer Special Credit Services  
P.O. Box 102880  
Anchorage, AK 99510-2880

January 28, 1998

Senator Loren Leman's Office  
716 West 4th Avenue, Suite 520  
Anchorage, Alaska 99501

RE: Alaska Permanent Fund Dividend

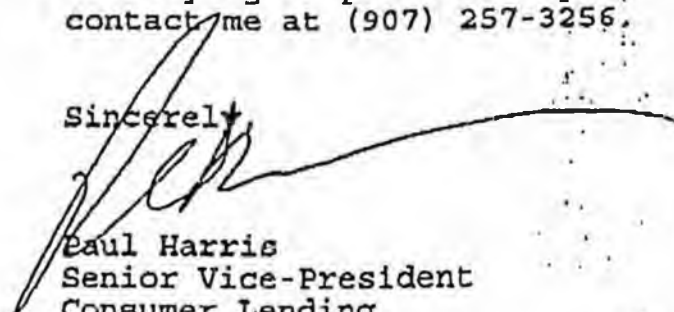
As a representative for National Bank of Alaska, I can't express enough the importance of receiving as much money as we can for unpaid loans that we have obtained a judgement on. At the present time we are only receiving 45% (garnishment) of Alaska's permanent fund dividend, for the most part, this only allows us to pay the interest due on most of our loans instead of reducing the principal balance.

If we were able to garnish 100% of the permanent fund dividend, we would be able to reduce the balance on these loans substantially and possibly pay most of them off. With individuals that are receiving the permanent fund dividend, we would not be taking anything away from them since this is "free money" that the state of Alaska is giving us. Nobody is above the law and our local business's should be treated the same as private citizens and benefit from this wonderful advantage of living or operating a business in the state of Alaska.

I feel that if you have a judgement against you, you should not have the right to a portion of the money distributed by the state of Alaska permanent fund dividend. I understand that child support and state agencies can garnish up to 100% of the permanent fund dividend and we should be given that same opportunity.

We at National Bank of Alaska fully support this bill that you are trying to pass and any assistance that we can provide, please contact me at (907) 257-3256.

Sincerely,



Paul Harris  
Senior Vice-President  
Consumer Lending



**NORTHLAND  
CREDIT**

---

January 28, 1998

Senator Loren Leman  
716 West 4th Avenue Ste 520  
Anchorage, Alaska 99501

Dear Senator Leman,

Northland Credit Corporation proudly supports Senate Bill 254, which would allow other entities other than those prescribed Title 43, Chapter 23 to use the permanent fund to satisfy debts on a much larger scale.

If businesses and private citizens were allowed to garnish 100% of the permanent fund, it would certainly send a message to those who choose not to pay their debts. We understand that state and federal agencies should be entitled to enforce the collection of child support payments or other obligations owed, but to allow those who may not fall under that criteria not to be subject to the same penalties is biased.

As a Branch Manager for the largest wholly-owned Alaskan consumer finance company, I feel it is imperative that some adjustment be made to this statute.

Sincerely,



Troy R. Ferguson  
Branch Manager  
Northland Credit Corporation

Superior Financial Service Corporation

226 E. 7th Avenue

Anchorage, Alaska 99501

(907) 276-0444 • Fax (907) 258-9051

January 29, 1998

FEB 02 1998

Senator Loren Leman  
State Capitol Room #115  
Juneau, AK 99801

RE: Senate Bill #254

Dear Senator Leman:

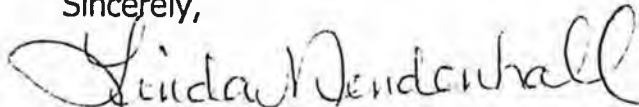
I would like to extend my appreciation, on behalf of Superior Financial Service, Corp., for your efforts regarding SB 254.

SB 254 will give us, and other creditors, an equitable way to collect a debt that is legally due.

Superior Financial Service, Corp. strongly supports SB 254 and would like to show our support. If we can assist in any way please let us know.

Once again, thank you Senator Leman.

Sincerely,



Linda Mendenhall  
Account Representative  
Superior Financial Service, Corp.  
(907) 276-0444



# Cal Worthington Ford

JAN 28. 1998

REF: SB 254

Dear Senator Ieman,

I am writing in support of your Senate Bill, 254. I think that creditors should be aloud to obtain 100% of an individuals dividend. Just because a business is not run by the State does not mean that they shouldn't be given the same opportunt to collect a debt owed to them. The Permanent Fund is privileged monies it is not earned wages; therefore 100% should be available for garnishment.

Sincerly,

*Monica F. Graziano*  
Monica F. Graziano

*John E. Low  
Post Office Box 90608  
Anchorage, Alaska 99509-0608*

January 28, 1998

The Honorable Loren Leman  
Chairman, Senate Labor & Commerce Committee  
State Capitol, Room 115  
Juneau, Alaska 99801

Dear Senator Leman:

I am writing to express my support for Senate Bill 254. I strongly urge you and your colleagues to vote in favor of this legislation.

My reasons for supporting this bill go back to an unpleasant experience that began in 1995. I own a four-plex apartment in Anchorage with my mother. We had one tenant living there with her dog and cat when we purchased the property in 1993.

In September of 1995 I noticed several cats in the apartment and I had received complaints of smells coming from her unit. When I asked her about the cats, she stated she owned six of them. This prompted me to give her notice of my intent to terminate our rental agreement. All of this caught me by surprise. I had only entered the apartment on two occasions, and it seemed to have been well-maintained. I should have been suspicious as she generally wouldn't answer the door and all the curtains would be closed to keep her privacy. She also put wallpaper over her back sliding door, apparently to hide the mess. She was turning the apartment into a cat sanctuary.

When I reclaimed the unit on November 1, 1995, I found eight abandoned cats. The apartment was filled with pet waste. The kitchen window had been left open for the cats to come and go as they pleased. Other damage included shredded walls from cat claws, and urine-soaked carpets along with underlying wood floors. All carpets, vinyl, even the refrigerator and oven had to be replaced because of the cat waste.

The clean-up process was time consuming and discouraging. I tried to hire house cleaners, but when one potential cleaner entered the unit her eyes began to water from the urine smell. She ended up running out, saying she could not participate. Consequently I did most of the work myself with limited help from two others and a carpenter. I worked every day of November and most every day of December to prepare for a new tenant. I used three ozone machines to eliminate the smell, talked to every possible expert and analyzed every option. I could not resolve the problem -- the smell still returns each summer. It was the most frustrating job I ever undertook, and my time for repairs totaled more than two hundred hours.

The Honorable Loren Leman  
Senate Labor & Commerce Committee  
January 28, 1998  
Page 2

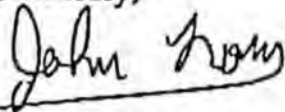
I tried to contact the former tenant responsible for the damage. She hung up on me, and I have never seen her again. Since she would not talk, I wrote a letter specifying the damage she caused. This was also ignored. Given that her security deposit had been only \$450, I began the long process of suing her. I filed a complaint and had her served. Once again, she did not respond. I estimated the damage at more than \$8,000. I asked for a judgment of \$5,000, which was the small claims limit at the time. The former tenant finally communicated via telephone at a default judgment hearing, and she admitted to the liability of \$5,000.

Then I proceeded to collect by hiring an investigator. I paid a process server the \$75 fee to seize any bank account in Anchorage held by the former tenant. She had no bank account. I then discovered I could not garnish her wages because of the generous exemptions that state law allows for debtors who have judgments against them.

It seemed my only hope was to seize her Permanent Fund dividend check, which I have done twice so far. It's a small help, but gains very little because of the exemptions that also apply to this area. Assuming that the amount of the annual dividend check remains reasonably stable, and assuming the debtor does not leave the state, it will take more than 13 years for me to collect this debt. If the Legislature eliminates the exemption on dividend checks, I could collect the debt in approximately 6 and 1/2 years.

This apartment is the only rental property my mother and I own. Because of what one irresponsible person did, we could not draw any income from it for eleven months. I trusted her not to ruin my property and she violated that trust. I urge the Legislature to change this law so that I can be justly compensated for my loss.

Sincerely,



John Low

# JOHNSON

EXPECT THE BEST

NISSANJeep  
Eagle

JAN 28 1998

January 28, 1998

Senator Loren Loman  
State Capitol Room #115  
Juneau, AK 99801

RE: Senate Bill #254

Dear Senator Loman:

I would like to extend my sincere appreciation to your office, for the effort you have put forward in regards to Senate Bill #254. This will help give us, and our fellow creditor's, the right to be equal in our efforts to collect a debt that is legally owed.

Johnson Nissan / Jeep / Eagle strongly supports Senate Bill #254. We are attempting, at this time, to rally as much support as we can for this bill. If there is any way we can be of assistance to you or your office, please call me at the number below.

Thank you for your efforts, and most of all your concern for everyone involved. We at Johnson Nissan / Jeep / Eagle promote fairness to everyone involved, including the debtor. All the creditor's in the State of Alaska will benefit greatly if it's passed. Again, if there's anything we can do, please let me know.

Sincerely,



Tori Sorensen  
Johnson Nissan / Jeep / Eagle  
Collections Manager  
(907) 762-5253

cc: Kim  
Juckie



# Cal Worthington Ford

Jan 28, 1998

Ref: SB 254

Dear Senator Lemmon,

I strongly support Senate Bill 254. This will help Alaskas small business collect on some of there bad debits on people thru the Alaska Permand Fund Dividend. It is unfair that State and Federal Government agency's can collect 100% of the Alaska PFD. Thank you for sponsoring this piece of Legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth C. Lee II". The signature is stylized and cursive.

Kenneth C. Lee II



## Cal Worthington Ford

28 January 1998

Ref: Garnishment of PFD Checks

Dear Senator Lemsu,

I strongly support Senate Bill 254. Since the Alaska PFD is basically a gift, not earned money, I feel that a person or private business should be able to garnish 100% of the PFD. I believe a private party who has a judgment to collect a bad debt should have just as much right to the whole PFD as the State of Alaska or the Federal Government. In most cases the PFD is the only means of garnishment and with only 55% of the PFD a lot of debts stay at the same amount due to the accrued interest between payments. Being able to seize 100% would actually reduce some of the principal amounts of the bad debts and therefore also reduce the accrued interest.

Again, I very strongly support Senate Bill 254.

Sincerely,

Ulrike M. Ward

## AFFORDABLE LOAN COMPANY

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JAN 28 1998

Senator Loren Leman  
State Capital Room 115  
Juneau, Ak. 99801

Ref: Senate Bill number 254

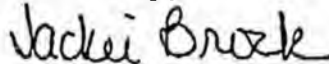
Dear Senator Lemman:

I would personally like to thank your office for the efforts you have put forth with this bill. This will give us, and any other creditor, the right to be equal in our efforts to collect a debit that is legally due and payable.

We strongly support this bill and will be trying to gather other support for this bill. Please let us know if there is any way we can be of assistance.

Again, thank you for your efforts, and mostly for your concern of fairness for everyone. The creditors in the State of Alaska will benefit from this bill greatly.

Sincerely,



Jackie Brock  
manager

Revision Date: February 11, 1998 Dept. Affected: Revenue  
 Title: Levy of Permanent Fund Dividends BRU: Revenue Operations  
 Component: Permanent Fund Dividend  
 Sponsor: (S) L&C  
 Requestor: (S) JUD COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1001 CBRF						
1048 University of AK receipts						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year cost \$ \_\_\_\_\_

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This amended bill reduces the exemption allowed on an individual's Permanent Fund Dividend (PFD) that was protected from levy execution, garnishment, attachment, or any other remedy for the collection of debt, from 45% to 30%. Cumbersome wording regarding the timing of payment is also eliminated. Section two of the bill removes the authority for PFD to charge an administrative fee for claims on PFD's. Section three is a new section added to impose a 5% administrative fee to be collected and deposited in the general fund to cover the administrative costs incurred by the department, the court system, and other state agencies for processing a claim on a PFD.

There are no fiscal effects on the Permanent Fund Dividend program.

Prepared by: Nanci A. Jones, Director Phone: (907) 465-2323  
 Division: Permanent Fund Dividend Date: February 11, 1998  
 Approved by Commissioner: Wilson L. Condon Date: February 11, 1998  
 Agency: Revenue

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Revision Date: February 11, 1998 Dept. Affected: Revenue  
 Title: Levy of Permanent Fund Dividends BRU: Revenue Operations  
 Component: Permanent Fund Dividend  
 Sponsor: (S) L&C  
 Requestor: (S) JUD COMPONENT SERIAL NO. 981

Expenditures/Revenues:		(Thousands of Dollars)				
	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
OPERATING EXPENDITURES						
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	0.0	0.0	0.0
CHANGE IN REVENUES ( )						

FUND SOURCE		(Thousands of Dollars)				
	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1001 CBRF						
1048 University of AK receipts						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year cost \$ \_\_\_\_\_

POSITIONS:

	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

This amended bill reduces the exemption allowed on an individual's Permanent Fund Dividend (PFD) that was protected from levy execution, garnishment, attachment, or any other remedy for the collection of debt, from 45% to 30%. Cumbersome wording regarding the timing of payment is also eliminated. Section two of the bill removes the authority for PFD to charge an administrative fee for claims on PFD's. Section three is a new section added to impose a 5% administrative fee to be collected and deposited in the general fund to cover the administrative costs incurred by the department, the court system, and other state agencies for processing a claim on a PFD.

There are no fiscal effects on the Permanent Fund Dividend program.

Prepared by: Nanci A. Jones, Director  
 Division: Permanent Fund Dividend  
 Approved by Commissioner: Wilson L. Condon  
 Agency: Revenue

Phone: (907) 465-2323  
 Date: February 11, 1998  
 Date: February 11, 1998

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ALASKA DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND DIVISION  
SUMMARY OF INVOLUNTARY ATTACHMENTS FOR DIVIDEND YEARS 1997 AND 1996  
 As of January 29, 1998

Agencies	1997			
	Total Claims Requested	Total Claims Paid	Amount of Claims Paid	Unpaid Claims
Bankruptcy	201	178	226,358	23
CSED	12,051	10,890	11,325,803	1,161
PSED	10,916	9061	10,763,807	1,855
State Agencies	11,769	5,259	1,850,095	6,510
IRS*	20,206	1	713	*20205
Court Ordered Restitution	65	53	62,098	12
Court Ordered Fines	15,798	7,905	2,062,671	7,893
Other Writs & Certified Services	18,717	9,733	5,321,983	8,984
<b>Totals:</b>	<b>89,723</b>	<b>43,080</b>	<b>31,613,528</b>	<b>26,438</b>

Agencies	1996			
	Total Claims Requested	Total Claims Paid	Amount of Claims Paid	Unpaid Claims
Bankruptcy	136	114	126,965	22
CSED	11,751	10,804	9,948,642	947
PSED	8,952	7,443	7,836,429	1,509
State Agencies	10,257	5,033	1,643,122	5,224
IRS*	21,418	16,452	13,874,801	4,966
Court Ordered Restitution	46	32	31,521	14
Court Ordered Fines	12,281	5,348	1,270,722	6,933
Other Writs & Certified Services	15,543	7,210	3,558,836	8,333
<b>Totals:</b>	<b>80,384</b>	<b>52,436</b>	<b>38,291,039</b>	<b>27,948</b>

\*In 1997, the IRS was experiencing difficulties with its computer system and, as a result, withdrew its attachments.

SUPPORTING DOCUMENTS

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
SUMMARY OF VOLUNTARY AND INVOLUNTARY ATTACHMENTS FOR 1982 - 1997  
As of January 29, 1998

<u>YEAR</u>	<u>AMOUNT</u>
1982	27
1983	88
1984	50
1985	185
1986	17,422
1987	35,296
1988	44,990
1989	31,204
1990	38,056
1991	42,961
1992	52,499
1993	59,888
1994	69,863
1995	84,554
1996	85,059
1997	<u>94,386</u>
Total:	<u>656,518</u>

**SB**

**272**

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SB 272

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act relating to children in need of BRU: Trial Courts  
aid matters & proceedings Component: \_\_\_\_\_  
 Sponsor: Governor  
 Requestor: Senate HESS COMPONENT SERIAL NO. 768

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	141.2	141.2	141.2	97.6	97.6	97.6
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL SUPPLIES	5.0	5.0	5.0	5.0	5.0	5.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>151.2</b>	<b>151.2</b>	<b>151.2</b>	<b>107.6</b>	<b>107.6</b>	<b>107.6</b>

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

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

**Fund Source** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	151.2	151.2	151.2	107.6	107.6	107.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>151.2</b>	<b>151.2</b>	<b>151.2</b>	<b>107.6</b>	<b>107.6</b>	<b>107.6</b>

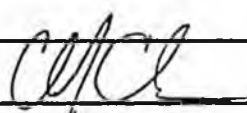
Estimate of any current year (FY 98) cost: \$ None

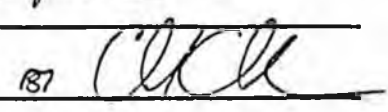
**Positions**

Full-Time	3	3	3	3	3	3
Part-Time	2	2	2			
Temporary						

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

See attached analysis.

Prepared by: C. S. Christensen III, General Counsel  Phone: 264-8228  
 Agency: Alaska Court System Date: 04/06/98

Approved by: Stephanie J. Cole, Administrative Director  Date: 04/06/98  
 Agency: Alaska Court System

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**Alaska Court System**

**Fiscal Analysis**

**SB 272**

**FUNDING OVERVIEW**

This fiscal note reflects only the costs of implementing this legislation. This legislation forms a part of a multifaceted effort by the Executive Branch to improve the child protection legal system. The court system recognizes the anticipated impact in three separate but related funding requests. The court's FY 99 operating budget request includes an increment for \$386,500 which reflects the impact on the judicial system of the Governor's Smart Start children's initiative. This proposed increment was based on the Department of Law's budget request for 8 additional child protection attorneys. In a related supplemental budget request, the court system is seeking \$84,000 for judicial staff, courtroom support staff and travel funds to deal with the new emphasis on processing adoptions of children in foster care. Finally, the court is requesting \$151,200 via this fiscal note for the impact of this legislation. Please note that the supplemental budget request duplicates portions of the FY 99 operating budget request and the fiscal note. The schedule below summarizes our funding requests.

	<u>Funding Requested in</u>		
	Operating Budget	Fiscal Note	<i>FY 98 Supple- mental*</i> <i>(Duplicates funding in operating &amp; budget &amp; FN request)</i>
<b>Personal Services</b>			
Pro Tem Superior Court Judge, Anchorage, PPT, 12 months	\$ 87,000		\$ 54,300
Family Court Master, Anchorage, 24A, PFT, 12 months	84,700		
Family Court Master, Fairbanks, 24A, PFT, 12 months	96,000		
In-Court Clerk, Anchorage, 12A, PFT, 12 months <i>(support to judge &amp; master)</i>	40,600		24,700
In-Court Clerk, Anchorage, 12A, PFT, 12 months <i>(support to judge &amp; master)</i>	20,300	20,300	
In-Court Clerk, Fairbanks, 12A, PFT, 12 months <i>(support to judge &amp; master)</i>	45,400		
Pro Tem Superior Court Judge, Fairbanks, PPT, 4 months		27,000	
Pro Tem Superior Court Judge, Juneau, PPT, 2.5 months		16,700	
Court Clerk II, Anchorage, 10A, PFT, 12 months		36,600	
Court Clerk II, Fairbanks, 10A, PFT, 12 months		40,600	
<b>Total Personal Services</b>	<b>374,000</b>	<b>141,200</b>	<b>79,000</b>
Travel		5,000	5,000
Supplies		5,000	
Equipment	12,600		
	<b>\$ 386,600</b>	<b>\$ 151,200</b>	<b>\$ 84,000</b>

\* The FY 98 Supplemental budget request covers a 15-month period: 3 months in FY 98 and 12 months in FY 99.

**FISCAL NOTE**

*Incremental costs of SB 272 only*

The court's fiscal note is based on information from the Department of Law and the Division of Family and Youth Services. According to this information, the courts are experiencing a dramatic increase in child in need of aid (CINA) cases and can expect additional work as a backlog of cases for children in foster care is processed. This workload will severely impact both the judicial and clerical resources of the court. It is anticipated that the increase in CINA cases will have a long-term impact while the impact from processing the backlog of cases is expected to end after three fiscal years. The



0-GS2009B.1  
Lauterbach ✓  
5/2/98

A M E N D M E N T

OFFERED IN THE SENATE  
TO: CSSB 272(HES)

1 Page 2, line 4:

2 Delete "the"

3 Insert "Rules 3, 7, 10, 15, 18, 19, and 22,"

4 Page 56, following line 23:

5 Insert new bill sections to read:

6 **\*\* Sec. 70. COURT RULE CHANGE.** (a) AS 47.10.030(b) and 47.10.070(a), as  
7 amended by secs. 25 and 27 of this Act, have the effect of amending Rules 3, 7, 10, 15, and  
8 19, Alaska Child in Need of Aid Rules, by requiring foster parents and other specified  
9 persons to have notice and allowing them an opportunity to be heard in child-in-need-of-aid  
10 proceedings.

11 (b) Sections 25 and 27 of this Act take effect only if this section receives the two-  
12 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of  
13 Alaska.

14 **\* Sec. 71. COURT RULE CHANGE.** (a) AS 47.10.080(a), as amended by sec. 28 of this  
15 Act, has the effect of amending Rule 15, Alaska Child in Need of Aid Rules, by establishing  
16 a timeframe for an adjudication hearing under AS 47.10.

17 (b) Section 28 of this Act takes effect only if this section receives the two-thirds  
18 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

19 **\* Sec. 72. COURT RULE CHANGE.** (a) AS 47.10.080(c)(3), as amended by sec. 29 of  
20 this Act, has the effect of amending

21 (1) Rule 18(c), Alaska Child in Need of Aid Rules, by changing the burden  
22 of proof for termination of parental rights; and

23 (2) Rule 18(e), Alaska Child in Need of Aid Rules, by requiring the  
24 Department of Health and Social Services to report quarterly, instead of annually, on its

0-GS2009\B.1

1 efforts to find a permanent placement for a child.

2 (b) The amendments made to AS 47.10.080(c)(3) by sec. 29 of this Act that change  
3 the burden of proof for termination of parental rights and require quarterly reports take effect  
4 only if this section receives the two-thirds majority vote of each house required by art. IV,  
5 sec. 15, Constitution of the State of Alaska.

6 \* Sec. 73. COURT RULE CHANGE. (a) To the extent that AS 47.10.080(c)(1) and (2)  
7 are amended by sec. 29 of this Act to allow a child's guardian ad litem to petition for an  
8 extension of the child's commitment or supervision, those provisions amend Rule 19(e),  
9 Alaska Child in Need of Aid Rules, relating to petitions for extensions of commitment or  
10 supervision of a child.

11 (b) The amendments described in (a) of this section take effect only if this section  
12 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution  
13 of the State of Alaska."

14 Renumber the following bill sections accordingly.

15 Page 56, line 30, through page 57, line 5:

16 Delete all material and insert:

17 "\* Sec. 75. COURT RULE CHANGE. (a) AS 47.10.080(f), as amended by sec. 30 of  
18 this Act, and AS 47.10.080(l), as amended by sec. 32 of this Act, have the effect of amending  
19 Rule 19, Alaska Child in Need of Aid Rules, regarding reviews and hearings by the court in  
20 child-in-need-of-aid proceedings.

21 (b) Sections 30 and 32 of this Act take effect only if this section receives the two-  
22 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of  
23 Alaska.

24 \* Sec. 76. COURT RULE CHANGE. (a) AS 47.10.086, as enacted in sec. 37 of this  
25 Act, has the effect of amending

26 (1) Rule 15, Alaska Child in Need of Aid Rules, regarding timing of hearings;  
27 and

28 (2) Rule 15(g), Alaska Child in Need of Aid Rules, regarding the standards  
29 for reasonable efforts to be made in child-in-need-of-aid proceedings.

30 (b) AS 47.10.086, as enacted in sec. 37 of this Act, takes effect only if this section

0-GS2009\B.1

1 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution  
2 of the State of Alaska.

3 \* Sec. 77. COURT RULE CHANGE. (a) AS 47.10.088(j) and (k), as enacted in sec. 37  
4 of this Act, have the effect of amending Rule 18, Alaska Child in Need of Aid Rules, by  
5 requiring the court to

6 (1) hold a termination of parental rights trial no later than six months from  
7 the date the petition is filed unless good cause is shown; and

8 (2) issue an order on the petition to terminate parental rights and  
9 responsibilities within a specified timeframe.

10 (b) AS 47.10.088(j) and (k), as enacted in sec. 37 of this Act, take effect only if this  
11 section receives the two-thirds majority vote of each house required by art. IV, sec. 15,  
12 Constitution of the State of Alaska.

13 \* Sec. 78. COURT RULE CHANGE. (a) AS 47.10.092(a), as amended by sec. 38 of this  
14 Act, amends Rule 22, Alaska Child in Need of Aid Rules, regarding disclosure of confidential  
15 information pertaining to child-in-need-of-aid proceedings.

16 (b) Section 38 of this Act takes effect only if this section receives the two-thirds  
17 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska."

18 Renumber the following bill sections accordingly.

## Child Protection Bill Comparison CSHB 272 (HES)

Statute	Governor's HB 375/SB 272	Statute	CS for SB 272
AS 11.41.100 (a) (2)	Murder One when 2 violent acts toward a child result in death	AS 11.41.100 (a) (2)	Deleted. In SB 218
AS 11.41.100 (a) (3)	Murder One when child dies during sex crime or kidnapping	AS 11.41.100 (a) (3)	Deleted. In SB 218
AS 11.41.110 (a) (5)	Murder Two when child dies and offender has a prior conviction for a violent crime against a child	AS 11.110 (a) (5)	Deleted. In SB 218
AS 11.41.130 (b)	Criminally Negligent Homicide is a B felony, rather than a C felony.	AS 11.41.130 (a)	Deleted per single subject rule. Same change in SB 218.
AS 11.41.300 (a)(1)(F)	Kidnapping includes restraint with sexual abuse of a minor or fear of sexual abuse.	AS 11.41.300 (a)(1)(F)	No change.
AS 11.41.300(d)	Kidnapping mitigated by release of victim without committing sexual assault or sexual abuse in first or second degree.	AS 11.41.300 (d)	No change.
AS 11.41.458	Creates felony indecent exposure for sex act in presence of a child	AS 11.41.458	Deleted. In SB 323.
AS 11.41.460	Misdemeanor indecent exposure amended to knowing exposure, rather than intentional exposure.	AS 11.41.460	Deleted. In SB 323.

**Child Protection Bill Comparison  
CSHB 272 (HES)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for SB 272</b>
AS 11.51.100	Endangering the Welfare of a Child expanded to leaving children with persons known to be dangerous to children.	AS 11.51.100	Amended to apply to children younger than 16 years.
AS 11.51.110	Creates a violation for Endangering: caring for child under 6 while possessing drugs, incapacitated or unattended child.	AS 11.51.110	Amended to victims under age 10; children in places where drugs are kept; impaired caretaker has babysitter defense.
AS 11.51.115	Felony criminal nonsupport for: hiding assets and accumulating a \$10,000 debt.	AS 11.51.115	Deleted. Amendment possible in HB 344.
AS 11.51.120	Misdemeanor criminal nonsupport for failure to pay when ordered by an administrative agency or court.	AS 11.51.120	Deleted. Amendment possible in HB 344.
		AS 12.55.025(i)	Amends reference to AS 12.55.125(k) which adds (1) and maintains (2)
AS 12.55.125 (c)(2) (B)	Manslaughter minimum raised from 5 to 7 years when the victim is a child	AS 12.55.125 (c)(2)(B)	Deleted. In SB 218
AS 12.55.125 (k)	Can aggravate sentence for crim neg homicide when the victim is a child	AS 12.55.125 (k)	Deleted. In SB 218
		AS 12.55.155(c)(2)	Amendment to drug sentencing statutes aggravating sentence when offender was caring for a child.

**Child Protection Bill Comparison  
CSHB 272 (HES)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for SB 272</b>
		AS 12.55.155(e)	Amends reference to AS 12.55.125(c)(2)(A).
AS 12.63.010 (a) and (b)	Tightens sex offender registration.	AS 12.63.010 (a) and (b)	Deleted per single subject rule. Same amendment in HB 252.
AS 12.65.005(a)-12.65.140	Creates child fatality review team in statute.	AS 12.65.005(a)-12.65.140	No change.
AS 14.20.020 (f); 14.20.030 (b)	No teaching certificates for sex offenders.	AS 14.20.020 (f) ; 14.20.030 (b)	Deleted. In SB 323.
AS 18.65.087 (a)	Allows DOC to register sex offenders.	AS 18.65.087 (a)	Deleted per single subject rule. Same amendment in HB 252.
AS 22.15.100	Changes "minor" to "child" to clarify CINA rather than JD status	AS 22.15.100	No change.
		AS 25.20.061-25.24.150(c)	Presumptions in custody/divorce cases added to original.
AS 33.30.012 (a)	Allows DOC to register sex offender prior to release and forward info to DPS.	AS 33.30.012 (a)	Deleted per single subject rule. Same amendment in HB 252.

**Child Protection Bill Comparison  
CSHB 272 (HES)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for SB 272</b>
		AS 43.23.065(b)	Includes reference to presumption statute.
	Legislative intent not in statute	AS 47.05.065	Legislative intent in statute.
AS 47.05.090	Medicaid eligibility for special needs children being adopted out of state	AS 47.05.090	No change.
AS 47.10.005	Statement to courts on how to construe statute.	AS 47.10.005	No change.
AS 47.10.010	Jurisdictional statement.	AS 47.10.010	No change.
AS 47.10.011(a)(1)	(a) (1) abandoned child	AS 47.10.011(a)(1)	(a)(1) abandoned by one parent and the other parent creates CINA status
AS 47.10.011(a)(2)	(a) (2) incarcerated parent for DV and failure to provide care	AS 47.10.011(a)(2)	(a)(2) one parent incarcerated for any reason and the other parent creates CINA status
AS 47.10.011(a)(3)	(a) (3) child left with unwilling or unable custodian	AS 47.10.011(a)(3)	(a)(3) no change.

**Child Protection Bill Comparison  
CSHB 272 (HES)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for SB 272</b>
AS 47.10.011(a)(4)	(a)(4) runaway status creates risk to child's physical or emotional health or safety	AS 47.10.011(a)(4)	(a)(4) no change.
AS 47.10.011(a)(5)	(a)(5) medical neglect for both physical and emotional disorders as specified in statute.	AS 47.10.011(a)(5)	(a)(5) medical neglect for physical and mental injury
AS 47.10.011(a)(6)	(a)(6) child suffered physical harm or is at substantial risk	AS 47.10.011(a)(6)	(a)(6) child has suffered substantial physical harm or is at substantial risk
AS 47.10.011(a)(7)	(a)(7) child has suffered sexual abuse or is at substantial risk	AS 47.10.011(a)(7)	(a)(7) no change.
AS 47.10.011(a)(8)	(a)(8) emotional harm; domestic violence as evidence of emotional harm	AS 47.10.011(a)(8)	(a)(8) child has suffered mental injury or is at substantial risk
AS 47.10.011(a)(9)	(a)(9) physical neglect	AS 47.10.011(a)(9)	(a)(9) no change.
AS 47.10.011(a)(10)	(a)(10) substance abuse impairs ability to parent; relapse provision.	AS 47.10.011(a)(10)	(a)(10) substance abuse impairs ability to parent or places child at substantial risk; relapse provision
AS 47.10.011(a)(11)	(a)(11) mental illness renders parent incapable of proper care for extended periods of time	AS 47.10.011(a)(11)	(a)(11) mental illness has caused harm to child or placed child at substantial risk of physical or mental injury

Child Protection Bill Comparison  
CSHB 272 (HES)

Statute	Governor's HB 375/SB 272	Statute	CS for SB 272
AS 47.10.011(a)(12)	(a)(12) parents pressure child to act illegally	AS 47.10.011(a)(12)	(a)(12) no change.
AS 47.10.013	Abandonment defined so that children younger than six get permanent homes faster.	AS 47.10.013	All children may be declared abandoned after three months without meaningful contact or support.
AS 47.10.014	Neglect defined more specifically than in AS 47.17.290	AS 47.10.014	Deletes "emotional health and development" and uses "mental health and development."
AS 47.10.017	Physical harm defined as a criminal assault by a parent; includes substantial risk of injury	AS 47.10.017	No change.
		AS 47.10.019	Limits jurisdiction based solely on poverty, housing or peculiar lifestyle.
AS 47.10.020(a)	Format for Child in Need of Aid (CINA) petition	AS 47.10.020(a)	No change.
		AS 47.10.030(b)	Expands formal notice requirement to foster parents, out of home custodians and tribe.
AS 47.10.050(a)	GAL shall be appointed in any CINA proceeding; attorney permissive.	AS 47.10.050(a)	No change.

**Child Protection Bill Comparison  
CSHB 272 (HES)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for SB 272</b>
AS 47.10.070(c)	Allows foster parents to receive notice of hearings, attend hearings, and be heard	AS 47.10.070(c)	Allows foster parents, out of home custodians, and tribes to receive formal notice of first hearing; attend, be heard.
AS 47.10.080(a)	Allegations must be proven by a preponderance of the evidence within 120 days of probable cause finding	AS 47.10.080(a)	No change.
AS 47.10.080(c)(1)	GAL can request extension of legal custody; Parties get advance notice of move and may request a hearing.	AS 47.10.080(c)(1)	Amended to allow one-year extension of legal custody; hearings on transfers in AS 47.10.080(s)
AS 47.10.080(c)(2)	GAL can request extension of supervision.	AS 47.10.080(c)(2)	Amended to allow one-year extension of supervision.
AS 47.10.080(c)(3)	Termination of Parental Rights Order followed by annual reports on permanence.	AS 47.10.080(c)(3)	Requires quarterly reports on permanence.
AS 47.10.080(f)	Requires at least annual permanency hearings; GAL can request review.	AS 47.10.080(f)	Annual permanency hearings for children in out of home placements; annual review hearings for children placed in home.
AS 47.10.080(i)	Decision on appeal within 90 days	AS 47.10.080(i)	Decision on appeal within 90 days; deadline using oral argument date.
AS 47.10.080(l)	Permanency hearing within twelve months of removal from home as calculated in AS 47.10.088(f)	AS 47.10.080(l)	No change.

**Child Protection Bill Comparison  
CSHB 272 (HES)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for SB 272</b>
AS 47.10.080(l)(2)	Court findings on permanent plan for child	AS 47.10.080(l)(2)	Findings amended to meet federal requirements.
AS 47.10.080(o)	Termination of Parental Rights based on a parent's incarceration	AS 47.10.080(o)	Amended to require that no other parent is willing and able to care for the child.
		AS 47.10.080(p)	Visitation statute added.
		AS 47.10.080(q)	Information that DFYS must provide to foster parents and vice versa.
		AS 47.10.080 (r)	Information that parents must provide to DFYS
		AS 47.10.080(s)	Requirements for DFYS to move a child. Amends AS 47.10.080(c)(1).
AS 47.10.082	Best interests of the child must be considered at disposition.	AS 47.10.082	Child's health and safety must be the paramount concern.
		AS 47.10.084	Requires DFYS to obtain legal representation for children in state custody and make decisions of legal or financial significance about a child.
AS 47.10.086	DFYS does not have to return children home in certain situations, if proven to court	AS 47.10.086	Expands the grounds for DFYS to seek court order that return home of child is not required.

**Child Protection Bill Comparison  
CSHB 272 (HES)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for SB 272</b>
AS 47.10.088(j)	Requires trial on petition to terminate parental rights within six months of filing petition	AS 47.10.088(j)	No change.
AS 47.10.088(k)	Requires decision on termination of parental rights within ninety days of trial completion	AS 47.10.088(k)	No change.
AS 47.10.092(a)	Allows DFYS to respond to legislators with info about child and family, not just child	AS 47.10.092(a)	Requires DFYS to respond to requests for information as a duty
AS 47.10.093 (b)	Loosens confidentiality restrictions; state medical examiner; teams; reporters of harm; federal law enforcement; CSED	AS 47.10.093(b)	Adds foster parents and transforms exceptions to confidentiality to duties that DFYS provide confidential information
AS 47.10.142(a)	Emergency custody when a sibling is sexually abused.	AS 47.10.142(a)	deletes requirement of "gross neglect" for emergency custody
		AS 47.10.142(c)	Requires DFYS to provide parents info on why child released and to whom.
		AS 47.10.142(h)	Requires 12-month hearing to review plan.
		AS 47.10.960	No duty of care by DFYS created in statute.

**Child Protection Bill Comparison  
CSHB 272 (HES)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for SB 272</b>
AS 47.10.990	Definitions amended to include additional terms. Some definitions in CINA Rule 2	AS 47.10.990	Emotional harm deleted; mental injury inserted; reasonable efforts definition amended.
	(a)(18) reasonable efforts by DFYS are time-limited services to prevent removal and to make safe return possible		(a)(18) reasonable efforts are consistent attempts by DFYS to offer services to a family
AS 47.12.310(b)	Loosens confidentiality in JD cases; includes federal law enforcement, medical examiner.	AS 47.12.310(b)	Mandates a response by DFYS; adds specific amendment for foster parents; Variation on amendment in HB 16.
		AS 47.14.100(a)	Statutory amendments to references.
AS 47.14.100(d)	Allows DFYS to provide respite care to foster parents for stress relief.	AS 47.14.100(d)	No change.
		AS 47.14.100(e)	Amends blood relative preference to require DFYS to do criminal background checks and allow fingerprint background checks.
		AS 47.14.100(i)	Requires DFYS to place a child with one safe parent if doing so would prevent removal from the home.
		AS 47.14.240	Citizen review panel gets healthcare records and report filed with court.

**Child Protection Bill Comparison  
CSHB 272 (HES)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for SB 272</b>
AS 47.14.300	Creates multidisciplinary teams.	AS 47.14.300	No change.
AS 47.17.020(a)	Mandates members of child fatality review team and multidisciplinary team to report child abuse and neglect.	AS 47.17.020(a)	No change.
AS 47.17.020(h) and (i)	Clarifies when DV and Alcohol treatment programs must make mandated reports of child abuse and neglect	AS 47.17.020 (h)and (i)	No change.
AS 47.17.033	Allows DFYS to investigate criminal histories of parents and perpetrators.	AS 47.17.033	No change.
		AS 47.17.035(b)	Amendments to duties of DFYS in DV cases.
AS 47.35.017(b)	Requires criminal background checks including fingerprints for licensed homes.	AS 47.35.017(b)	Adds drivers' license and SSN provisions.
AS 47.35.022	No license when certain criminal histories uncovered; procedure for rechecks.	AS 47.35.022	No change.
AS 47.35.023(b)	Emergency license for 180 days with partial compliance with criminal background check	AS 47.35.023(b)	Emergency license for 90 days; with provisions for two 90-day extensions.
AS 47.35.047(b)	Licensee has duty to report new offenses.	AS 47.35.047(b)	No change.

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 30, 1998

272

The Honorable Mike Miller  
Senate President  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear President Miller:

More than 15,500 reports of child abuse or neglect were filed last year in Alaska. National statistics have shown Alaska has the highest rate of child abuse and neglect among all 50 states with 38 substantiated cases for every 1,000 children in the state's population. These disturbing numbers have steadily increased since the 1980's along with increases in substance abuse and domestic violence. One abuse feeds another. The cycle must stop. We are shirking our greatest responsibility if we don't face this tragedy head on and demand the tools, laws and resources to put an end to it.

This child protection bill I am transmitting to you today is my Administration's effort to improve Alaska's laws to protect our children and prevent the crime that inevitably results when abused kids become angry teens and adults. This bill is part of my Smart Start for Alaska's Children initiative – a comprehensive approach to breaking the cycle of abuse and neglect, stopping family violence, preventing crime, and working together for a bright future for all of Alaska's children.

The bill makes many changes in Alaska law to protect children and prevent crime. The most significant include:

- Updating the child in need of aid laws to put children first and make sure every effort is made to reunify the family when appropriate, and to expedite making the child legally eligible for permanent placement when reunification is clearly not in the child's best interest.
- Increasing penalties for people who kill or harm children by abuse or neglect.

The Honorable Mike Miller  
January 30, 1998  
Page 2

- Establishing a child fatality review team and facilitating the sharing of information to improve our legal tools to investigate child fatalities and more comprehensively address situations that put Alaska children at risk.
- Requiring incarcerated sex offenders to register as sex offenders prior to release from prison.
- Improving criminal laws regarding criminal nonsupport of children by heightening penalties to be sure parents who are able, but choose not to support their children are appropriately punished.
- Authorizing the Department of Health and Social Services to enter into the Interstate Compact on Adoption and Medical Assistance to facilitate adoption of hard-to-place children when they move from state to state.

I have proposed attacking Alaska's escalating problem with child abuse on three major fronts: health care, prevention programs, and intervention when children are in peril. Earlier this session, I introduced a bill to expand Medicaid eligibility for children, giving our kids a chance for a healthy start in life. That legislation, along with several initiatives in my proposed budget, boosts programs such as Healthy Families and Head Start to prevent child abuse through education and counseling. This bill completes my Smart Start package by providing the necessary intervention tools to stop abusive situations. It represents my Administration's effort to say we will not allow this harmful situation to continue. I urge you to give this bill and my entire Smart Start package thorough and swift attention.

Sincerely,



Tony Knowles  
Governor

# FISCAL NOTE

Bill Version: SB272  
 (S) Publish Date: 2/2/98

STATE OF ALASKA  
 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) Original Dept. Affect Multiple (see analysis)  
 Title "An Act relating to children in need of aid  
matter and proceedings; relating to murder of children ..." BRU  
 Component \_\_\_\_\_  
 Sponsor Rules Committee  
 Requester Governor Component Serial No. \_\_\_\_\_

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

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

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

The costs of implementing a zero tolerance policy for reports of harm to children by investigating all such reports are part of the comprehensive \$14 million child protection element of the Governor's Smart Start Initiative included in the FY 99 budget. The Executive Branch agencies with significant budgetary issues related to the criminal and civil provisions set out in this bill are the Departments of Administration, Corrections, Health and Social Services, and Law. If the FY 99 Smart Start increments for those agencies are not funded, this bill cannot be fully implemented.

Continued on next page ...

Prepared by Laura Baker, Budget Analyst Phone 465-4684  
 Division Office of Management and Budget Date 1/30/98  
 Approved by Annalee McConnell, Director Date 1/30/98  
 Agency Office of Management and Budget

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**Analysis Continued:** "(An Act relating to children in need of aid...")

The interrelationships of the agencies' efforts are complex. The bill had not been finalized at the time the FY 99 budget was submitted, so some adjustments may be necessary to the child protection elements of Smart Start. If so, they will be presented as Governor's budget amendments within the overall amount already budgeted for Smart Start.

*Agencies and programs involved:*

Department of Administration

Office of Public Advocacy - The appointment of a guardian ad litem is legally required upon the filing of a child in need of aid (CINA) petition. These guardians ad litem must, following their appointment by the court, represent the best interests of the child throughout the CINA proceedings. An increase in cases will result from additional investigations expected to be undertaken by the Division of Family and Youth Services.

Public Defender - As a result of changes in policies of the Division of Family and Youth Services, the number of CINA cases is expected to significantly increase case activity. Parents have a right under Alaska law to representation by court-appointed counsel in CINA cases and criminal cases if they cannot afford their own attorney.

Department of Corrections

This legislation would expand penalties relating to certain crimes against children. These changes are expected to increase the number of incarcerations and the length of time served.

Department of Health and Social Services

This bill affects a broad range of departmental programs, including substance abuse treatment and family support services; social services for children in need; and temporary foster care or permanent adoption homes.

Additional adoption placements resulting from these changes in the law are separate from the placement backlog.

Department of Law

Criminal Division - Enactment of this legislation will add new criminal provisions as well as increase the penalties for those people who kill or harm children by abuse and neglect. The bill would make it easier to charge individuals who harm children with more serious offenses, and increase the sentences they may receive.

Civil Division - Changes in this bill include tightening definitions to clarify when a child is in need of aid and when state intervention is justified. A significant change involves time limits, the setting of deadlines, and a more concrete definition of parental responsibilities. Cases will proceed to a termination trial much faster to ensure that when reunification with family is not in the child's best interest, the child can be made legally eligible for placement in a permanent home more quickly.

Court System

The Alaska Court System is anticipated to submit a separate fiscal note regarding impacts of the bill.

A M E N D M E N T

OFFERED IN THE SENATE

BY: \_\_\_\_\_

TO: CSSB 272(HES)

1 Page 2, line 4:

2 Delete "the"

3 Insert "Rules 3, 7, 10, 15, 18, 19, and 22,"

4 Page 56, following line 23:

5 Insert new bill sections to read:

6 **"\* Sec. 70. COURT RULE CHANGE.** (a) AS 47.10.030(b) and 47.10.070(a), as amended by  
7 secs. 25 and 27 of this Act, have the effect of amending Rules 3, 7, 10, 15, and 19, Alaska Child in  
8 Need of Aid Rules, by requiring foster parents and other specified persons to have notice and  
9 allowing them an opportunity to be heard in child-in-need-of-aid proceedings.

10 (b) Sections 25 and 27 of this Act take effect only if this section receives the two-thirds  
11 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

12 **\* Sec. 71. COURT RULE CHANGE.** (a) AS 47.10.080(a), as amended in sec. 28 of this Act,  
13 has the effect of amending Rule 15, Alaska Child in Need of Aid Rules, by establishing a timeframe  
14 for an adjudication hearing under AS 47.10.

15 (b) Section 28 of this Act takes effect only if this section receives the two-thirds majority  
16 vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

17 **\* Sec. 72. COURT RULE CHANGE.** (a) AS 47.10.080(c)(3), as amended by sec. 29 of this Act,

1 has the effect of amending

2 (1) Rule 18(c), Alaska Child in Need of Aid Rules, by changing the burden of proof  
3 for termination of parental rights; and

4 (2) Rule 18(e), Alaska Child in Need of Aid Rules, by requiring the Department of  
5 Health and Social Services to report quarterly, instead of annually, on its efforts to find a permanent  
6 placement for a child.

7 (b) The amendments made to AS 47.10.080(c)(3) by sec. 29 of this Act that change the  
8 burden of proof for termination of parental rights and require quarterly reports take effect only if this  
9 section receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution  
10 of the State of Alaska.

11 \* Sec. 73. COURT RULE CHANGE. (a) To the extent that AS 47.10.080(c)(1) and (2) are  
12 amended by sec. 29 of this Act to allow a child's guardian ad litem to petition for an extension of the  
13 child's commitment or supervision, those provisions amend Rule 19(e), Alaska Child in Need of Aid  
14 Rules, relating to petitions for extensions of commitment or supervision of a child.

15 (b) The amendments described in (a) of this section take effect only if this section receives  
16 the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of  
17 Alaska."

18 Renumber the following bill sections accordingly.

19 Page 56, line 30, through page 57, line 5:

20 Delete all material.

1           Insert new bill sections to read:

2           **"\* Sec. 75. COURT RULE CHANGE.** (a) AS 47.10.080(f), as amended by sec. 30 of this Act,  
3           and AS 47.10.080(l), as amended by sec. 32 of this Act, have the effect of amending Rule 19, Alaska  
4           Child in Need of Aid Rules, regarding reviews and hearings by the court in child-in-need-of-aid  
5           proceedings.

6           (b) Sections 30 and 32 of this Act take effect only if this section receives the two-thirds  
7           majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

8           **\* Sec. 76. COURT RULE CHANGE.** (a) AS 47.10.086, enacted in sec. 37 of this Act, has the  
9           effect of amending

10                   (1) Rule 15, Alaska Child in Need of Aid Rules, regarding timing of hearings; and

11                   (2) Rule 15(g), Alaska Child in Need of Aid Rules, regarding the standards for  
12           reasonable efforts to be made in child-in-need-of-aid proceedings.

13           (b) AS 47.10.086, enacted in sec. 37 of this Act, takes effect only if this section receives the  
14           two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of  
15           Alaska.

16           **\* Sec. 77. COURT RULE CHANGE.** (a) AS 47.10.088(j) and (k), enacted in sec. 37 of this Act,  
17           have the effect of changing Rule 18, Alaska Child in Need of Aid Rules, by requiring the court

18                   (1) to hold a termination of parental rights trial no later than six months from the date  
19           the petition is filed, unless good cause is shown; and

20                   (2) to issue an order on the petition to terminate parental rights and responsibilities  
21           within a specified timeframe.

22           (b) AS 47.10.088(j) and (k), enacted in sec. 37 of this Act, take effect only if this section

1 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the  
2 State of Alaska.

3 \* **Sec. 78. COURT RULE CHANGE.** (a) AS 47.10.092(a), as amended by sec. 38 of this Act,  
4 amends Rule 22, Alaska Child in Need of Aid Rules, regarding disclosure of confidential  
5 information pertaining to child-in-need-of-aid proceedings.

6 (b) Section 38 of this Act takes effect only if this section receives the two-thirds majority  
7 vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska."

8 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE SENATE

BY \_\_\_\_\_

TO: CSSB 272(HES)

1 Page 57, lines 6 - 9:

2 Delete all material and insert:

3 **"\* Sec. 72. APPLICABILITY; CONSIDERATION OF EVIDENCE.** (a) Sections 3 - 7 of this Act  
4 apply to offenses committed on or after the effective date of this Act.

5 (b) Sections 38 and 64 of this Act apply to conduct, an activity, or an action taken under  
6 AS 47.10, 47.12, 47.17, and 47.35 regardless of whether the conduct, activity, or action occurred  
7 before, on, or after the effective date of this Act.

8 (c) Except as provided in (a) and (b) of this section, this Act applies to

9 (1) a case or proceeding that is filed with the court on or after the effective date of  
10 this Act;

11 (2) an action taken under AS 47.10, 47.12, 47.17, and 47.35 on or after the effective  
12 date of this Act; and

13 (3) a motion that is filed with the court on or after the effective date of this Act in a  
14 case or proceeding that was pending in the court before the effective date of this Act.

15 (d) The provisions of (c) of this section do not preclude consideration of evidence of conduct  
16 or omission of any person that brings the child under the jurisdiction of AS 47.10 or 47.12."

## **(Non) Sponsor Statement for SB 272/HB 375**

*by Representative Fred Dyson*

My staff, other legislators, the administration, two committees, and I have worked for three months on this bill. We have made scores of changes to what came out of the Governors Child Protection Review Team. I believe this is a large (and relatively inexpensive) step forward in protecting our kids. We have general agreement from the Administration on the changes.

### **A. This bill does not...**

- ...guarantee that DFYS workers will not make mistakes
- ...guarantee that the court hearings for DFYS to take custody of a child will be fair.
- ...guarantee that each out-of-home child placement will be successful.
- ...force DFYS to shape up (but it does set performance standards).
- ...guarantee that a parent will "get their act together"

### **B. What will happen if we pass this bill?**

- We will have taken a very large step forward in protecting children.
- The goal is to provide direction to social workers that is as specific and clear as possible. Clear standards will help social workers make the right decisions.

### **C. What will happen if we don't pass this bill in some form?**

- Some \$10 million in federal funds will be in jeopardy because new federal law requires the states to come into conformity at the next state legislative session.
- State confidentiality laws will continue to limit the necessary cooperation between state agencies.
- Courts will continue to have problems with our inadequate, confusing, and obsolete definitions in state law.
- We will not have changed the emphasis of our child protection laws to make the safety of the child paramount.
- We will not have set, in law, the standards for DFYS to place children into safe and permanent homes within a year.
- We will not have tightened our criminal law related to child murder and abuse.
- We will not have mandated that foster parents get the information they need to care for the children in their charge.
- We will not have empowered DFYS to intervene before a child is killed or badly abused.

## SB 272 / HB 375 Overview (modified)

- *Create a Child Fatality Review Team to investigate child deaths*

Between 1992 and 1996, as many as 10 abuse-or neglect-related child deaths went undetected in Alaska because no systematic process existed to review child deaths. These bills would place in statute a child death review process through the State Medical Examiner to ensure that deaths from abuse and neglect are identified and prosecuted and that action is taken to protect surviving siblings.

- *Allow earlier intervention in cases of abuse and neglect*

Current Alaska law, as interpreted by recent Supreme Court decisions, limits protection for children by allowing intervention primarily *after* harm has occurred or only when *substantial physical harm* is imminent. These bills would clarify the grounds for intervention and allow intervention *before* harm occurs, as soon as a child is found in a dangerous home. Intervention to change the home situation could occur before, rather than after, a child is hurt.

- *Incorporate changes in federal law to better protect children and move them quicker into safe, permanent homes*

Research teaches us that children younger than 6 need to attach and bond to a permanent secure caretaker. The bills allow children younger than 6 who have been abandoned to be quickly placed into permanent safe homes.

- *Multidisciplinary Teams*

The teams are grounded in the idea that a successful response to child abuse requires a high level of teamwork amongst investigative and prosecuting agencies. They coordinate investigations, case management and prosecution in child abuse and neglect cases; allow consultation with doctors, teachers, psychologists and others with special expertise; review whether the cases they have managed were carried out according to the protocols set up by the team.

- *Make child health and safety paramount in all child protection actions*

The bills follow the direction of federal law in establishing that the health and safety of children are the most important considerations in child protection decisions and actions. Under existing state law, the rights of parents to raise their child may result in a child being returned to a dangerous home.

- *Continue requirements to make reasonable efforts to preserve and reunify families but limit application in certain aggravated situations*

States continue to be required to make efforts to preserve and reunite families except in situations where it is clearly not in the interests of children such as:

- 1) when a child has been abandoned, tortured, subjected to chronic physical or mental abuse;
- 2) a parent has killed a child or has assaulted a child and caused serious physical injury to the child;
- 3) a parent's rights to a sibling have been involuntarily terminated.

# 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

## **(Non) Sponsor Statement for SB 272/HB 375**

*by Representative Fred Dyson*

My staff, other legislators, the administration, two committees, and I have worked for three months on this bill. We have made scores of changes to what came out of the Governors Child Protection Review Team. I believe this is a large (and relatively inexpensive) step forward in protecting our kids. We have general agreement from the Administration on the changes.

### **A. This bill does not...**

- ...guarantee that DFYS workers will not make mistakes
- ...guarantee that the court hearings for DFYS to take custody of a child will be fair.
- ...guarantee that each out-of-home child placement will be successful.
- ...force DFYS to shape up (but it does set performance standards).
- ...guarantee that a parent will "get their act together"

### **B. What will happen if we pass this bill?**

- We will have taken a very large step forward in protecting children.
- The goal is to provide direction to social workers that is as specific and clear as possible. Clear standards will help social workers make the right decisions.

### **C. What will happen if we don't pass this bill in some form?**

- Some \$10 million in federal funds will be in jeopardy because new federal law requires the states to come into conformity at the next state legislative session.
- State confidentiality laws will continue to limit the necessary cooperation between state agencies.
- Courts will continue to have problems with our inadequate, confusing, and obsolete definitions in state law.
- We will not have changed the emphasis of our child protection laws to make the safety of the child paramount.
- We will not have set, in law, the standards for DFYS to place children into safe and permanent homes within a year.
- We will not have tightened our criminal law related to child murder and abuse.
- We will not have mandated that foster parents get the information they need to care for the children in their charge.
- We will not have empowered DFYS to intervene before a child is killed or badly abused.

**D. What this bill does:**

- This bill increases penalties and closes loopholes that allow child killers to get light sentences.
- Eliminates confidentiality barriers to inter-agency communications and cooperation and mandates cooperation and communication.
- Allows for earlier intervention in cases of child abuse and neglect when the child is in a dangerous home.
- Makes child protection the highest priority for DFYS, even higher than "family reunification" at the expense of child safety.
- Purports to meet the requirement of new Federal Law and should qualify Alaska to continue to receive approximately \$10 million in funding annually.
- Creates a statewide Child Fatality Review Team and facilitates the formation of local Multidisciplinary Teams to coordinate the dealing with local child abuse cases.
- Provides for foster parents and other care givers to get all relevant information about the child in their care including criminal background, behavioral problems and medical history.
- Sets firm deadlines for proceedings and permanent placement.
- Clarifies definitions of vague terms that have troubled the courts and produced inconsistent protection of children.
- Provides for criminal checks for prospective caregivers.

## SB 272 / HB 375 Overview (modified)

- ***Create a Child Fatality Review Team to investigate child deaths***  
Between 1992 and 1996, as many as 10 abuse-or neglect-related child deaths went undetected in Alaska because no systematic process existed to review child deaths. These bills would place in statute a child death review process through the State Medical Examiner to ensure that deaths from abuse and neglect are identified and prosecuted and that action is taken to protect surviving siblings.
- ***Allow earlier intervention in cases of abuse and neglect***  
Current Alaska law, as interpreted by recent Supreme Court decisions, limits protection for children by allowing intervention primarily *after* harm has occurred or only when *substantial physical harm* is imminent. These bills would clarify the grounds for intervention and allow intervention *before* harm occurs, as soon as a child is found in a dangerous home. Intervention to change the home situation could occur before, rather than after, a child is hurt.
- ***Incorporate changes in federal law to better protect children and move them quicker into safe, permanent homes***  
Research teaches us that children younger than 6 need to attach and bond to a permanent secure caretaker. The bills allow children younger than 6 who have been abandoned to be quickly placed into permanent safe homes.
- ***Multidisciplinary Teams***  
The teams are grounded in the idea that a successful response to child abuse requires a high level of teamwork amongst investigative and prosecuting agencies. They coordinate investigations, case management and prosecution in child abuse and neglect cases; allow consultation with doctors, teachers, psychologists and others with special expertise; review whether the cases they have managed were carried out according to the protocols set up by the team.
- ***Make child health and safety paramount in all child protection actions***  
The bills follow the direction of federal law in establishing that the health and safety of children are the most important considerations in child protection decisions and actions. Under existing state law, the rights of parents to raise their child may result in a child being returned to a dangerous home.
- ***Continue requirements to make reasonable efforts to preserve and reunify families but limit application in certain aggravated situations***  
States continue to be required to make efforts to preserve and reunite families except in situations where it is clearly not in the interests of children such as:
  - 1) when a child has been abandoned, tortured, subjected to chronic physical or mental abuse;
  - 2) a parent has killed a child or has assaulted a child and caused serious physical injury to the child;
  - 3) a parent's rights to a sibling have been involuntarily terminated.

## SB 272 / HB 375 Overview (modified)

- *Require faster transition to safe, permanent homes for victims of abuse and neglect*  
Federal law establishes requirements for faster action to prevent child victims from lingering in temporary care for years while parents make repeated, unsuccessful attempts to remedy behavior that places the child at risk in their home. These bills follow federal law in:

- 1) requiring earlier hearings to establish a permanent plan (within 12 months of a child's removal from his or her home);
- 2) establishing strict timelines for action to terminate parental rights when children have been in foster care (action is required when children have been in foster care 15 of 22 months);

These bills set strict time limits for action by both parents and state agencies to assure parents make changes that allow children to return home safely or that state agencies act to speed up legal proceedings and place children in safe, permanent families.

- *Establish procedures for criminal records checks for any prospective foster or adoptive parents before the parents are finally approved for placement of a child*

The bill insures that children are placed in homes that have been thoroughly investigated, prior to placing a child there. Persons over 16 in a licensed home who cares for children will be required to complete a thorough criminal background check using fingerprints. Licensed homes will be regularly rechecked for criminal activity.

- *Allow foster parents and other caregivers to take part in child welfare hearings*

The bills follow federal law in allowing foster parents and caregivers for children to get notice of hearings and be heard in hearings regarding the child in their care.

CSHB 375 "B" (SHES)	CSHB 375 "E" (wkdrft)	HB 375 "A" (Gov)	Subject	Statutes
1	1	1	Intent & Policy	
2	2	2	ANCSA Dividends	AS 10.06.961(a)
deleted/SB218	3	3	Murder One	AS 11.41.100(a)
deleted/SB218	4	4	Murder Two	AS 11.41.110(a)
5	5	6	Kidnapping	AS 11.41.300(a)
6	6	7	Kidnapping	AS 11.41.300(d)
deleted/SB323	7	8	Indecent Exposure One	AS 11.41.458
deleted/SB323	8	9	Indecent Exposure Two	AS 11.41.460
9	9	10	Endangering Welfare One	AS 11.51.100
10	10	11	Endangering Welfare Two	AS 11.51.110
deleted/SB218	11	none		AS 12.55.025(i)
deleted/SB218	12	13		AS 12.55.125(c)
deleted/SB218	13	14	Penalties for Crimes	AS 12.55.125(k)
14	14	none	Sentencing Factors	AS 12.55.155(c)(23)
deleted/SB218	15	none	Presumptive Term	AS 12.55.155(e)
16	16	17	Death Reporting	AS 12.65.005(a)
17	17	18	Fatality Team	AS 12.65.015
18	18	19	Records/Duties/ Confidentiality (Immunity)	AS 12.65.000
deleted/SB323	19	20	Teacher Certif. Revoked	AS 14.20.020(f)
deleted/SB323	20	21	Teacher Certif. Revoked	AS 14.20.030(b)
21	21	23	Functions/Powers District Judges/Magistrate	AS 22.15.100
22	22	none	Rebuttable Presumption	AS 25.20.061
23	23	none	Temp. Custody-DV Rlat'n	AS 25.20.070
24	24	none	Custody Rlat'd to Sec. 21	AS 25.20.090
25	25	none	Termination	AS 25.23.180(c)
26	26	none	Custody Rlat'd to Sec. 21	AS 25.24.150(c)
27	27	none	PFD Rlat'd to Sec. 21	AS 43.23.065(b)
28	28	1	Findings	AS 47.09.065
29	29	25	Adoption Compact	AS 47.05.090
30	30	26	Construction	AS 47.10.005
31	31	27	Jurisdiction	AS 47.10.010
32	32	28	Children in Need of Aid	AS 47.10.011
33	33	29		AS 47.10.020
34	34	30		AS 47.10.020(b)
35	35	none	Proceeding Notice	AS 47.10.030(b)
36	36	31		AS 47.10.050(a)
37	37	none	Foster Parents / Others Testify	AS 47.10.070(a)
38	38	33	Adjudication Hearing 120 days after probable cause	AS 47.10.080(a)