

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9585 SENATE JUDICIARY

1 Renumber the following bill section accordingly.

2 Page 5, line 17:

3 Delete "sec. 4"

4 Insert "sec. 5"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 6(FIN) am

1 Page 2, following line 1:

2 Insert new bill sections to read:

3 **** Sec. 3. AS 47.12.310(b) is amended to read:**

4 (b) A state or municipal agency or employee may disclose information
5 regarding a case to

6 (1) a guardian ad litem appointed by the court or to a citizen review
7 panel for permanency planning authorized by AS 47.14.200 - 47.14.220;

8 (2) a person or an agency requested to provide consultation or services
9 for a minor who is subject to the jurisdiction of the court under this chapter;

10 (3) school officials as may be necessary to protect the safety of school
11 students and staff or to enable the school to provide appropriate counseling and
12 supportive services to meet the needs of a minor about whom information is
13 disclosed;

14 (4) a governmental agency as may be necessary to obtain that agency's
15 assistance for the department in its investigation, or to obtain physical custody of a
16 minor;

17 (5) a state or municipal law enforcement agency as may be necessary
18 for a specific investigation being conducted by that agency or for disclosures by that
19 agency to protect the public safety; and

20 (6) a victim as may be necessary to inform the victim about the
21 disposition or resolution of a case involving a minor.

22 *** Sec. 4. AS 47.12.310(c) is amended to read:**

23 (c) A state or municipal law enforcement agency

24 (1) shall disclose information regarding a case that is needed by the
25 person or agency charged with making a preliminary investigation for the information

1 of the court under this chapter;

2 (2) may disclose to the public information regarding a criminal offense
3 in which a minor is a suspect, victim, or witness if the minor is not identified by the
4 disclosure;

5 (3) may disclose to school officials information regarding a case as
6 may be necessary to protect the safety of school students and staff or to enable the
7 school to provide appropriate counseling and supportive services to meet the
8 needs of a minor about whom information is disclosed;

9 (4) may disclose to the public information regarding a case as may be
10 necessary to protect the safety of the public; and

11 (5) may disclose to a victim or to the victim's insurance company
12 information, including copies of reports, as necessary for civil litigation or insurance
13 claims pursued by or against the victim."

14 Renumber the following bill sections accordingly.

15 Page 5, line 17:

16 Delete "sec. 4"

17 Insert "sec. 6"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 6(FIN) am

- 1 Page 2, line 30, through page 3, line 5:
- 2 Delete all material and insert:
- 3 "(D) burglary under AS 11.46.300;"

ALASKA MENTAL HEALTH BOARD

TONY KNOWLES, GOVERNOR
STATE OF ALASKA

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April 25, 1997

The Honorable Robin Taylor
Alaska Senate
State Capitol
Juneau, AK 99811

Dear Senator Taylor:

The Alaska Mental Health Board has developed a position on CSHB6. We offer this position in our role as the state planning and advocacy agency for youth and adults who experience mental illnesses and serious emotional disorders.

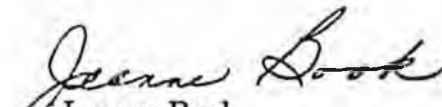
The Board believes that there must be a balance between confidentiality and disclosure for youth with mental health needs. The Board is particularly concerned with the impact of releasing information on seriously emotionally disturbed youth who are involved with the criminal justice system. The release of confidential information concerning these youth can create a level of stigma and ostracism that significantly undermines mental health interventions with this population. At the same time, the Board recognizes that some level of information sharing may be appropriate when public safety and protection are paramount.

The Board cannot support CSHB6 in its present form since we believe it does not strike the proper balance between confidentiality and disclosure. The Board could potentially support CSHB6 if the following changes were made:

- the legislation is limited to older adolescents;
- disclosure does not occur until adjudication; and
- disclosure does not occur for "adjusted" offenses.

On behalf of youth mental health beneficiaries in Alaska, we urge you to develop and adopt these amendments to CSHB6. Thank you for your consideration.

Sincerely,


Jeanne Book
Chair

Testimony concerning HB 6 - Disclosure of Information About Minors

By Laura Rorem
9151 Parkwood Drive, Juneau, Alaska 99801
789-1647

My name is Laura Rorem. I am the parent of two adopted children, ages 21 and 24 who have suffered from brain disorders their entire lives. One lives with the reality of a mental illness and the other with the reality of Fetal Alcohol Effects. I am also a member of the Alaska Mental Health Board. My husband is a Lutheran pastor in Juneau and is also heavily involved in mental health issues in the community. I am here today wearing my hat as a family member and an advocate for children of all ages who suffer from brain disorders and their families. I am not speaking on behalf of the AMHB, ~~as the board has not taken an official position on this bill yet.~~

I wish to thank you for this opportunity to address the committee on how HB 6 will adversely effect this special population of people and their families.

Brain disorders are no fault diseases that affect behavior, thinking processes, mood, judgement, reason, and decision, to name only a few symptoms. They are caused by biochemical and/ or structural abnormalities in the brain. Weakness of will, and bad parenting are not to blame. These illnesses **are not caused** by problems in living, bad environment, abuse or neglect. These diseases are grossly misunderstood, and treatment for them is sporadic, haphazard, difficult to access, and blame oriented.

Imagine for a moment the public response to heart disease treatment if it were delivered in the same way as it is to those with brain diseases. First--a bureaucratic--red-tape cluster of community cardiac health centers requiring those with heart disease or their parents to present medical, legal just cause, which is difficult to obtain, for hospitalization or treatment if a cardiac breakdown occurs. Then once a month--if that--doctors see the patient for 15 minutes at the center and of course it is up to the cardiac patient to get there on their own--even if it means walking for miles. A cardiac episode requiring hospitalization specifies stabilization and discharge in 5 or 10 days, unless the patient is ruled a criminal (having somehow wound up in jail overnight along the way). Meanwhile at the state cardiac hospital, criminal patients are housed on the same grounds as everyone else. At the same time, the parents are trying desperately to get quick and appropriate treatment for their child's life threatening disease, only to be blamed for causing their child's heart disease or being told repeatedly by the cardiac treatment center that "We have to wait until your child commits a crime first before we can help him." Then when the child finally commits a crime, in spite of parental efforts to prevent it, their child's name and their name is published for all to see. This is done even though appropriate intervention was repeatedly denied by the care system that was suppose to be there to help them. The public shame of their child's heart disease would increase.

A child with heart disease is not apt to commit a crime without treatment--he is apt to die. A

brain disease is also life threatening without appropriate treatment. There is also the possibility the child may commit some kind of crime along the way. This occurs, not because the child is bad, but because a child with a brain disorder has a diseased organ of decision, reason, and judgement. It is not uncommon for these children to end up in the juvenile justice system because their parents have been unable to find, and therefore they have not received, appropriate treatment for their disease.

Children and adults with brain disorders are good people, but their brains diseased. They are often incapable of make the distinction between right and wrong or unable to understand consequences--no matter how hard they try to stay on track, and their parents try to teach them right from wrong.

We are good parents with good children. We begged for help for years without getting any--instead we were offered blame and the runaround. That would not happen if our child had heart disease, leukemia, CP, or diabetes. We did everything we could, only to be repeatedly told, "you have to wait until he commits a crime first." Our children do not want to commit a crime, and as parents, we go above and beyond the call of duty to prevent it. But there are times their brains would explode and he or she would run away trying to get away from the pain in their brain and end up doing something wrong because of it. To prevent them from committing a crime, and as a last resort, we finally hospitalized them out of state--six months for one and two years for the other. If they had committed a crime and our child's name and ours would have been published, it would not have served as a detriment, nor would it have brought about intervention. Instead our child, and we, would have been further ostracized and blamed, publicly humiliated and our lives would have been further destroyed. No one would have cared to help us. It would have brought punishment rather than treatment. It would have violated our right to privacy concerning our child's disease.

Being ostracized only isolates more and accentuates the possibility of more negative activities. It only adds more pain and suffering to an already painful, devastating, misunderstood disease. What is needed is a process of appropriate intervention and treatment that seeks to restore dignity. My children are adults now. HB 6 will not affect us, but it will adversely affect all children with brain disorders and their parents. It will unjustly punish them for having a disease of their brain. Disclosure of arrest is not evidence that a crime has even been committed. Often times it is the first clue that a child even has a brain disorder and becomes an opportunity for intervention and treatment.

Another point I wish to make. In 1991, we discovered that our son was in the early stages of self medicating his brain disorder with marijuana. He was 15 at the time. We sought professional early intervention from several agencies in Juneau, as well as the school. No one would help us, but they were willing to give us advice. With that advice, we approached our son with love and concern to address the issue of his substance abuse. He was calm at the time. Just as we said, "We love you, we need to talk to you, we need you to listen," he pulled a knife on us. Upon further advisement, we were told to have him arrested, which we did. He was arrested for felony assault III. He was never adjudicated, but was put on informal probation. As a result, we were finally able to get him down to Seattle for a thorough Neuropsychological exam--

something we had tried to do for years but had not been able to accomplish before. HB 6 would have prevented us from calling the police to have him arrested as a means to get the much needed help we were seeking. It would prevent other parents from doing the same today. Sadly, it would not have come to a situation of us needing to have our son arrested if the service system had intervened when we had pleaded for them to earlier.

My testimony reflects not only my reality. It also reflects a painful reality shared by more people than you realize throughout Alaska. There is a universal fear among parents of children of brain disorders that the prison system and court system will become the treatment their child receives, rather than appropriate early intervention and treatment that can, in many cases, result in a vulnerable, fragile child growing up to be a productive and respected member of society. Please don't further diminish the lives of many caring and loving Alaskan parents and their children, who live daily with a no fault illness for which they will receive further blame and humiliation by disclosing their names publicly.

Thank you for listening and consideration.



NATIONAL ASSOCIATION OF SOCIAL WORKERS
ALASKA CHAPTER

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Testimony Regarding

CSHB 6(Jud): RELEASE OF INFORMATION ABOUT MINORS

Before the
JUDICIARY COMMITTEE
ALASKA SENATE
April 23, 1997

Presented by
Angela M. Salerno, ACSW
Executive Director,
National Association of Social Workers Alaska Chapter



NATIONAL ASSOCIATION OF SOCIAL WORKERS ALASKA CHAPTER

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The National Association of Social Workers (NASW) is the world's largest organization of professional social workers. NASW's 155,000 members nationwide and 460 in Alaska work in a wide range of settings at all levels in the public and private sectors. Professional social workers focus on vulnerable populations and promote state and federal policies which enhance the lives of the people we serve.

Thank you for the opportunity to address the Committee on HB 6- Release of Information About Minors.

NASW opposes HB 6 and does not recommend its passage. These proposed amendments to the Alaska Children's Code represent a dramatic and fundamental change to the state's juvenile justice system. Since its inception, the basic mission of the juvenile court has been rehabilitation as well as accountability. Confidentiality of juvenile records was part of a progressive reform movement intended to make the treatment of juvenile offenders more effective and humane. The first juvenile court, created by the social worker, Jane Addams, was designed to be a civil rather than a criminal court, and the accused were to be defined less by their offenses than by their youth. Children were thought to be still susceptible to rehabilitation, and the judges were to act informally, serving like doctors, to dispense the right treatment for the offender, rather than punishment. As a result, for the past century, juvenile arrest and court proceedings have remained closed to the public. This offers the youth protection from negative labeling and lifelong community sanction for acts committed before adulthood. The juvenile system places an emphasis on the youthful offenders eventual reintegration and reentry into society.

The cost of this measure to the State of Alaska is over \$1 million annually. Federal law requires that states which receive Title IV-E (foster care) funds keep confidential the names of all juveniles in their jurisdiction. Costs to separate the records of CINA and delinquent youth, additional staffing needed to operate the new system, as well as the annual loss of \$700,000 (the amount spent each year for foster placements for youthful offenders) is money better spent on prevention programs which have a real chance of significantly lowering the cost of juvenile crime.

This is a radical and untested measure for which we have no data to predict outcomes. Breach of confidentiality laws became popular approximately five years ago as a get tough, quick fix response to community concerns about juvenile crime. Supporters claim the measure will improve public safety and deter crime. There is no research or reliable data to support these claims.

Research done at the University of Florida has shown that popular "get tough" measures fail in dealing with juvenile crime. Appearing in the April 1996 issue of the *Journal of Crime and Delinquency*, the study found that youths tried as adults commit new crimes at a higher rate than their counterparts who stay in juvenile courts. This finding is significant to the debate on HB 6 because releasing the names of juvenile offenders treats them as de facto adults. Without the protection of confidentiality, youth are more likely to "graduate" into more serious criminal activity.

Alaska is already "tough on juvenile crime." It is a misperception that "nothing happens" to juveniles who commit crimes. The confidentiality of juvenile cases, combined with the emphasis on rehabilitation, may lead to the impression that no sanctions, punishment or measures to hold the juvenile responsible are now in place. In fact Alaska ranks second in the nation for the percentage of its juveniles who are locked up, and second in the length of time that juveniles are locked up. Those who deal with juvenile offenders - the courts and probation officers - have a number of choices or dispositions: waiver to adult courts for the most serious offenses, adjudication and probation, or in more severe cases, institutionalization in long-term detention and treatment facilities. For minor offenses, informal adjustments such as restitution, prevention and treatment programs, or victim-offender mediation are routinely and effectively ordered. Due to funding deficits, these programs are not available to all who would benefit.

Releasing the names of juvenile offenders and their parents will not deter the youth from future crime. This type of sanction will not have the intended outcome. Those youth engaged in ongoing criminal activity may see disclosure as a "badge of honor." More impressionable youth may internalize the label, compromising efforts at rehabilitation. Breaching confidentiality will definitely result in a public record that will damage the youth in attempts to find employment, enter college, rent an apartment or borrow money to purchase a home or start a small business. This measure will restrict the youth's future success, almost ensuring the youth will resort to further criminal activity. Further, releasing the names of parents could impact their future employability as well as social standing in the community. Some parents who must endure the pressure of widespread publicity could become even less involved in their children's lives, and further disrupt the life of the family.

HB 6 proposes suspension of confidentiality even before a minor is adjudicated, and creates a "guilty before being found guilty" situation. HB 6 would allow the release of confidential information when DFYS informally adjusts a case, or simply petitions for adjudication. Before guilt has been admitted or proven the minor's name is released. Even if insufficient evidence is brought forth and the case is dismissed, those youth will bear the damage of being labeled.

HB 6 proposes to suspend confidentiality when a probation officer decides not to adjudicate, but to adjust the case informally. Adjustment is often chosen for non-violent offenses that do not present life threatening dangers to public safety. Case adjustment offers the opportunity for competency building and socialization in non-violent youth offenders, and perhaps the opportunity to guide the youth away from further crime. Probation officers can require payment of restitution, family counseling, community work service or completion of a variety of diversion and treatment programs. The officer can also refer the victim and offender to voluntary mediation - a tool of "restorative justice." According to the Alaska Judicial Council, the department resolves most juvenile cases through adjustment, and a large majority of juveniles whose cases are adjusted do not return to the juvenile system. By releasing the names and circumstances around case adjustments we may negate the role of treatment, diversion, prevention and restorative justice in the community.

HB 6 provides no mechanism to assist the community in providing what the sponsor statement refers to as the "guidance, attention, and assistance troubled youth require." Supporters claim this bill will result in the youth receiving help and attention from the community. Yet no community agencies, committees, or informal groups are charged with the responsibility of providing this help. There must exist a clear linkage between the troubled youth and the community - some adult or group of adults willing to establish a relationship with the youth, and who are able to successfully confront the youth with his or her wrongdoing. Without this assignment of responsibility, we abandon our role in rehabilitation, and look only to punishment and retribution.

Juvenile crime is closely associated with societal problems beyond the youth's control. Breaching confidentiality will not address the real problems behind juvenile crime. The past twenty years have seen dramatic changes in the make-up of our communities and an overall worsening of many social problems. Some of the factors contributing to increased juvenile crime include:

- **the sheer number of young people in Alaska** - between 1980 and 1990, the nation as a whole experienced a 1% increase in its juvenile population. During the same time period Alaska's juvenile population increased 40%. (National Council on Crime and Delinquency). In 1990, youth between the ages of 0-19 made up 35.8% of Alaska's population (US Census Bureau).
- **poverty, and its proven link to juvenile crime.** Each year in Alaska 24,701 children receive public assistance. (State of Alaska, Child Health Planning Work Group). Since 1974, poverty rates have been higher for juveniles than for the elderly (OJJDP).
- **child abuse and its proven link to juvenile crime.** Each year in Alaska 3,575 cases of child abuse are verified. The state of Alaska receives over 15,000 child abuse and neglect reports each year. (State of Alaska, Child Health Planning Work Group)
- **failure in school and its proven link with juvenile crime.** Nearly 25% of Alaska's ninth graders do not graduate from high school four years later.
- **juvenile offenders are more likely to live with single parents.** Each year in Alaska, 31,705 children are living in single parent households. (State of Alaska, Child Health Planning Work Group).
- **1,900 Alaskan adolescents are homeless annually (Alaska DHSS).**

NASW supports a balanced and restorative approach to juvenile justice. Restorative justice, a fairly new philosophical framework for dealing with juvenile crime, identifies crime as harm done to both victims and the community. It prioritizes restoration as a goal of the justice process. Through efforts to mend and strengthen the social fabric of communities, it is more concerned with "making things right" than with fixing blame or meting punishment. Dramatically different from retributive justice - the prevailing system which concentrates on legal infringement, penalties, and deterrence - restorative justice is nevertheless a powerful tool for addressing crime in an effective way.

The problem of juvenile crime and the factors that are at work in causing it are complex, and troubling to the community. NASW supports a comprehensive, balanced and restorative approach to juvenile justice - one that promotes public safety, holds offenders accountable to victims, and provides competency development and socialization for offenders so they can reintegrate into society and become productive Alaskans. We recommend community-based programs of restorative justice, especially the development of community response groups charged with responsibility for confronting juvenile offenders in their neighborhoods. We urge the state to promote a variety of ongoing prevention measures such as recreational and civic opportunities for youth and their families. Breaching the confidentiality of minors will not get us where we want to go, and could in fact seriously backfire on us, creating criminals where now none exist.

Thank you, and I'll be available to the Committee anytime to answer questions.

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

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While in Juneau
State Capitol
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House District 31

House Of Representatives

Sponsor Statement House Bill 6

Disclosure of information about criminal acts by minors.

House Bill 6 will allow the free flow of information about minors who commit repeat or serious offenses. Communities will no longer be precluded from providing the guidance, attention, and assistance troubled youth require.

The release of information by DFYS occurs in two areas of dealing with a minor: 1) when a minor is informally adjusted - i.e. assigned consequences without going to court - and 2) during the formal court adjudication of delinquency. Approximately 75 - 85% of all minors who commit crimes are informally adjusted by DFYS, and approximately 15 - 25% are petitioned to juvenile court.

This legislation provides for the disclosure of specific information to the public about a crime committed by a juvenile. The Department of Health and Social Services, Division of Youth and Family Services, shall release the name of the minor, the minor's parent(s), the action required of the minor, and the nature of the offense exclusive of information about the victim.

In the informal adjustment process, DFYS **shall** release the name of a minor if the minor has committed a prior offense and then commits a serious felony including:

- A) a crime against a person
- B) use of a deadly weapon
- C) arson
- D) a 2nd burglary, (or multiple burglaries)
- E) distribution of child pornography
- F) promoting prostitution
- G) delivering a controlled substance.

In the informal adjustment process, DFYS **may** release the name of a minor if:

The minor fails to comply with the agreed restitution, rehabilitation or placement plan.

(b) For those cases where the department finds that the informal adjustment is inappropriate and determines it is necessary to **file a petition** to bring the minor before juvenile court for formal adjudication, the department releases information about the minor if:

1) The minor fails to comply with the agreed restitution, rehabilitation or placement plan.

2) The minor commits a serious felony including:

- A) a crime against a person
- B) use of a deadly weapon
- C) arson
- D) burglary
- E) distribution of child pornography
- F) promoting prostitution
- G) delivering a controlled substance.

or

3) The minor commits a second felony, and is 16 years of age or older.

(c) HB 6 also provides that the department shall disclose information about a dismissed case against a minor, or the minor was not found delinquent, if the minor requests the information be revealed. At present the department cannot release information about a minor's innocence.

(d) (1) Disclosure of a temporary foster parent's name is precluded.
(2) Provides that the department may use electronic means to provide the disclosure - i.e. via a home page.

(e) Sets a limit of five years for the disclosure by the department, if the minor keeps a clean record.

(f) Allows the department to petition the court to stop disclosure. The court may stop an authorized disclosure if the court finds that it is an isolated incident and the minor does not present further danger to society, or if the victim agrees that disclosure is not desirable.

ALASKA STATE LEGISLATURE
HOUSE BILL NO. 6

HISTORY IN THE HOUSE

1997

1/13 Read first time and referred to:
HES Jud

1/31 HES RPT CS(HES) New Title
4 DP 0 DNP 2 NR 1 AM
8 FN 3 OFN Previous FN

2/23 rec. additional referral to FIN
FIN rec. additional referral to FIN
Jud RPT CS(Jud) New Title
3 DP 0 DNP 2 NR 2 AM
8 FN 0 OFN 3 Previous FN

3/24 FIN RPT CS(FIN) New Title
5 DP 0 DNP 2 NR 2 AM
8 FN 0 OFN 8 Previous FN
3 0 FN

4/17 Read second time
CS(FIN) Adopted

4/17 Amended

4/17 advance 4/18

4/18 Advanced

4/18 Read third time

Return to second for specific amendment

4/18 PASSED EFD/Same ___ or
 Yeas 29 Yeas
 Nays 8 Nays
 Excused 3 Excused
 Absent 0 Absent

___ Intent adopted

Reconsideration
 Reconsideration not taken up

PASSED ON RECON. EFD Same ___ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

___ Intent adopted

4/18 Reported correctly engrossed
 Signed by Speaker, to the Senate

Greg Lowe
 Chief Clerk of the House

HISTORY IN THE SENATE

1997

4/21 Read first time and referred to:
JUD, FIN

___ RPT(___) CS ___ DP ___ NR ___ DNP ___ AM
 ___ New Title ___ Same Title ___ Previous FN
 ___ FN ___ OFN To ___

___ RPT(___) CS ___ DP ___ NR ___ DNP ___ AM
 ___ New Title ___ Same Title ___ Previous FN
 ___ FN ___ OFN To ___

___ RPT(___) CS ___ DP ___ NR ___ DNP ___ AM
 ___ New Title ___ Same Title ___ Previous FN
 ___ FN ___ OFN To ___

___ Rules Calendar(___) CS ___ AM ___ Other
 ___ New Title ___ Same Title ___ Previous FN
 ___ FN ___ OFN

Read second time

___ CS Adopted (___) ___ New Title
 ___ Amended ___ Advanced

Read third time

___ Letter of Intent adopted
 ___ Return to second for specific amendment

PASSED EFD Same ___ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

Reconsideration
 Reconsideration not taken up

PASSED EFD Same ___ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

Reported correctly engrossed
 Signed by President, to the House

___ Secretary of the Senate

OPINION

Fairbanks Daily News-Miner, Sunday, April 6, 1997

Sam Eisonop, Opinion Page Editor; 459-7574

FAIRBANKS

Daily News - Miner

"Independent in All Things... Neutral in None"

Established in 1903

CHARLES L. GRAY
Publisher Emeritus

PAUL J. MASSEY
Publisher

KELLY BOSTIAN
Managing Editor

SAM BISHOP
Editorial Page Editor

Moving crime's boundaries

In a well-meaning effort to give delinquent young people a chance to mend their ways before being branded "no good," our society closed down communication about who they were and what they were doing. We said "Punish them, but don't let us see it happen because we don't want that punishment to prejudice us against them."

For many years, police, courts, parole officers and jails were prohibited from saying anything about what they were doing in the cases of individual juveniles. With this approach, all of us as neighbors, schoolmates, teachers, friends and even family forfeited our ability to make informed judgments about whether a particular young person deserved a second chance or not. We replaced it with the blanket assumption that they did. Today, it's gotten a little hot under that blanket. so we're kicking a few corners off.

Rep. Pete Kelly's House Bill 6, in its current, much-amended form, would make the Division and Family Youth Services and courts reveal the names of minors being accused of and punished for certain crimes: arson, assault with a deadly weapon, burglary if it's the second arrest or more, distributing child pornography, promotion of prostitution, drug dealing and any other felony crime against another person.

The bill also says the state "may" release the name of a juvenile if the young person has failed to follow the terms of punishment for any earlier crime. The names of parents, guardians and long-term care-givers of accused minors also would be made public.

After five years, a person's record of crimes committed as a minor would be sealed, so long as the person has made all restitution payments and not committed any more felonies.

The bill isn't just about notifying the public of punishment, though. It specifically states that young people who are accused but not eventually punished for or convicted of any crime can have their innocence made public if they want. That would allow minors and their parents a way to stop rumors that might circulate given the presence of a system that, even if Kelly's bill passes, will operate largely in secret.

A parallel bill sponsored by Rep. Pete Kott, HB 3, would direct police agencies to release the names of minors arrested for the above list of crimes. Both HB 6 and HB 3 are in the House Rules Committee, the last step before a floor vote.

These bills continue to reflect our society's willingness to protect young people and their families from stigma associated with a few foolish mistakes. But they move the boundaries a little. Serious, harmful crimes or a pattern of lesser offenses by minors will no longer be kept secret. Whether that secrecy has contributed to escalating youth crime is a matter of conjecture. Certainly there are other causes that can't be denied. But these changes are worth trying in response to a most discouraging and frightening trend. The new laws should make young people and, perhaps more importantly, their families and friends think more seriously about the choices they are making.

1

State Responses to Serious and Violent Juvenile Crime

Research Report

Patricia Torbet
Richard Gable
Hunter Hurst IV
Imogene Montgomery
Linda Szymanski
Douglas Thomas

National Center for Juvenile Justice

Shay Bilchik, Administrator
U.S. Office of Juvenile Justice and Delinquency Prevention

July 1996

Chapter 5

Confidentiality of Juvenile Court Records and Proceedings

Trend: Traditional confidentiality provisions are being revised in favor of more open proceedings and records.

Along with the changes discussed in previous chapters—jurisdictional authority, sentencing, and correctional options—come significant changes in how the juvenile justice system treats information about juvenile offenders, and particularly serious and violent juvenile offenders.

Issues relating to confidentiality of juvenile court proceedings and their records have existed for decades. A system that rehabilitates and protects minors from the stigma of youthful indiscretions was not a problem when those indiscretions were of a minor nature. However, as juvenile crime became more serious, community protection and the public's right to know began to displace confidentiality as a bedrock principle.

Moreover, law enforcement, child welfare, schools, and other youth-serving agencies see the same subset of juveniles under juvenile court jurisdiction. Accordingly, the need to share information across systems is apparent. As a result, we have seen a concerted effort to promote information-sharing partnerships among juvenile courts, probation departments, law enforcement, prosecutors, schools, and youth-serving agencies (see Search Group, 1982; and Rapp, Stevens, and Clontz, 1989). The rationale for sharing information among system actors with a "need to know" is a better coordinated and more efficient service delivery system that avoids duplication of services and better utilizes shrinking resources.

The fundamental issue with respect to sharing juvenile records and opening proceedings is balancing the need to protect a juvenile's right to privacy with the need to assure the community's safety and provide needed services and supervision. Figure 7 illustrates the dynamic tension generated by trying to balance these competing positions.

Recently, significant activity has occurred among State legislatures with respect to confidentiality issues. Analysis of statutes enacted from 1992 through 1995 reveals several distinct trends in the disclosure, use, and destruction of juvenile records and the openness of juvenile court proceedings. These trends represent a definitive shift in the use and management of information, with notable impact on juvenile justice processing—particularly as it relates to juvenile records and proceedings.

Juvenile Court Proceedings

Traditionally, juvenile court proceedings have been informal and distinguished from the criminal court hearing by exclusion of the general public. The model Standard Juvenile Court Act of 1959 stated that:

The privacy of the hearing contributes to a casework relationship, and avoidance of the spectacle of a public criminal trial is especially advantageous in children's cases. This hearing should have the character of a conference, not of a trial. . . . The hearing is private, not secret. . . . the reference to persons who have "a direct interest in the work of the Court" includes newspaper reporters who should be permitted, indeed, encouraged to attend hearings, with the understanding that they will not disclose the names or other identifying data of the participants (NCCD, 1959).

One commentator reviewing the U.S. Supreme Court decisions on the matter of confidentiality suggested that "while the Court has required procedural reform which has resulted in a general tendency to equate a juvenile and a criminal procedure . . . it has continued to shield perhaps the most paternalistic of all the juvenile court's procedures [the public trial]" (Hurst, 1985). Another commentator

Figure 7

Opening Juvenile Court Records and Proceedings Generates Dynamic Tension



Protect the Juvenile	vs.	Protect the Community
Right to Privacy	vs.	Right to Know
Separate and Distinct Juvenile Justice System	vs.	One System for Criminal Justice

noted that the U.S. Supreme Court has never proclaimed a constitutional right of confidentiality for alleged delinquents, and the trend in cases that have gone before the Court on this issue makes it unlikely that one will be crafted, despite the Court's long-time acceptance of confidentiality as a part of the juvenile justice rehabilitative model (Martin, 1995).

In response to the debate over confidentiality as a part of juvenile proceedings, the National Council of Juvenile and Family Court Judges (NCJFCJ) recently declared that:

Traditional notions of secrecy and confidentiality should be re-examined and relaxed to promote public confidence in the court's work. The public has a right to know how courts deal with children and families. The court should be open to the media, interested professionals and students and, when appropriate, the public, in order to hold itself accountable, educate others, and encourage greater community participation (NCJFCJ, 1995, p. 3).

Since 1992, State legislatures have increasingly called for a presumption of open proceedings and the release of juvenile offenders' names. (See figure 9 at the end of the chapter for a list of States that passed legislation from 1992 through 1995 addressing juvenile court records and proceedings.)

Public Juvenile Hearings

Many States passed laws that either open juvenile court hearings to the public generally or for specified violent or other serious crimes. In addition, some statutes set age restrictions. From 1992 through 1995, 10 States passed legislation that modified or created statutes that open juvenile proceedings (see figure 9). In all, 22 States require or permit open juvenile court hearings of cases involving either juveniles charged with violent or other serious offenses or juveniles who are repeat offenders (see figure 8).

Release/Publication of Juvenile's Name

While many States permitted access to juvenile court proceedings, many prohibited publishing a juvenile's name unless the juvenile was charged with a violent or other serious offense. However, since 1992 several States have passed legislation that gives the general public and/or media access to the name and address of a minor adjudicated delinquent for specified serious or violent crimes; in some cases, this also applies to repeat offenders. In all, 39 States now permit the release of a juvenile's name and/or picture to the media or general public under certain conditions.

Juvenile Court Records

There are two types of juvenile court records: legal and social. Legal records include court petitions, complaints, motions, transcripts of testimony, findings, orders, decrees, and other information introduced and accepted as evidence. Social records typically include documents and reports received or prepared by the probation officer or other designated authority, which have been requested by a juvenile court inquiring into the past behavior, family background, and personality of an alleged or adjudicated juvenile delinquent (Vereb, 1980). These records track the outcomes of intake proceedings, preliminary hearings, detention hearings, arraignments, adjudication and disposition hearings, reviews, and social investigations as well as the juvenile's conduct and progress as to the court's orders. In addition to these court records, juveniles are the subjects of law enforcement records, including fingerprints, photographs, offense reports, and investigation reports. Juveniles are also the subjects of education records, records of psychological or psychiatric examinations, and medical records.

With respect to serious and violent juvenile offenders, State legislatures have made changes to juvenile court records in the following areas: access to or disclosure of information, use of information, and the sealing or expungement of records.

Disclosure of Juvenile Court Records

Formerly private, juvenile court records are increasingly available to a wide variety of people. The "need to know" argument requires proper disclosure of information among youth-serving agencies. Many States open juvenile court records to school officials or require that schools be notified when a juvenile is taken into custody for all crimes of violence or crimes in which a deadly weapon is used. Legislatures also require that victims be given notice of activities such as release, escape, or the setting of hearing dates. Some States lowered the age for which juvenile court records may be made publicly available. Descriptions of information-sharing statutes follow.

Information-Sharing Statutes in California, Florida, and Virginia

California

In 1995, the legislature reaffirmed its belief that juvenile court records, in general, should be confidential. However, they did provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, law enforcement agencies, and schools to ensure rehabilitation of juvenile offenders

Police say youth slain in robbery try

By KAREN AHO
Staff Writer

Fairbanks Police say a teenager shot to death Wednesday was killed when he and another teen tried to rob a 42-year-old Hamilton Acres resident who had marijuana plants in his home.

The victim was identified as 17-year-old Rick Achman, a Lathrop High School student whose legal name was Richard Johnson.

Police said Achman and two other teens had been staking out the home at 535 Craig Ave. much of the day Wednesday in preparation for a burglary. Word on the street was that the man inside grew marijuana. Public Safety Director Mike Pulice said.

Achman first knocked on the door at 11 a.m. with another boy, asked for someone by name, then left in a blue Subaru wagon driven by a third boy, police said.

At 12:30 p.m., Achman knocked again, this time alone, and asked again for the person, someone who apparently does not live there, police said. He left and drove away with two boys in the blue Subaru.

The resident, whose name police have not released, told police the activity made him suspicious, so he brought a loaded shotgun into the kitchen.

Shortly before 3 p.m., the resident told police, Achman knocked on the door a third time, this time with a second teen and a handgun. He said he and Achman struggled at the door for the gun and that Achman overpowered him, forced him inside and said they were there to steal his marijuana plants.

Once in the kitchen, the resident told police he grabbed the shotgun and fired once. Achman, was shot in the chest, police said. His body was found outside by paramedics, a few feet from the front door, following a 2:57 p.m. call to police reporting the shooting.

Neighbors on both sides of the house who were home at the time told the News-Miner they didn't hear any shots. Police did not say what size shot was used.

No charges have been filed against the resident, and his name has not been released, because police said the district attorney's office is still reviewing possible homicide or drug charges.

District Attorney Harry Davis would not comment Thursday, saying through a secretary that the case was still under investigation. Police said they found eight marijuana plants inside the man's home.

The two other teens reportedly involved were interviewed by police Wednesday but were not in custody Thursday. Their names were not released because

they are under 18, police said.

At Lathrop High School, two extra school district counselors were made available to students Thursday. Some youths who didn't know Achman were in

tears, students said.

"Young people have this fearlessness about themselves," Principal Jim Holt said. "And when one of their peers is killed, in any manner... it's a shock to them."

Those who knew Achman best said his alleged behavior was uncharacteristic.

Achman may have smoked marijuana at times, but he had
See YOUTH, Page A-8

YOUTH: Robbery

Continued from Page A-1
never been seen with guns and certainly didn't talk about burglaries, friend Derek Garben said. Police said it appears the gun belonged to one of Achman's accomplices.

"He totally wasn't like what he did," said Garben, 18. "I'm completely amazed that he even thought about that."

But it wouldn't be inconceivable for Achman to agree to such a "stupid" idea, Garben said. Achman always liked to go along with the group, his friends said.

"I think it was just a spur of the moment, 'Hey let's go do this,'" Garben said. "Ricky was totally into doing anything, just because he, he wanted to be a part of everything."

Achman was born in Oregon and attended Weller, University Park and Joy elementary schools and Tanana Middle School in Fairbanks. He was an all-star infielder in Little League baseball, where he played 11 years, and at age 12 went to California when Fairbanks won the state championship, said his mother, Deb Achman.

At age 13 he took up wrestling. He tried out, but did not make the wrestling team this year, in part because his grades weren't good enough, his mother said. She doesn't know how her son reached such an end.

"If I knew, it wouldn't have gotten to this point," she said. "All I know is, talk to your kids. You need to stay in touch with your kids."

"You take their hat off, you look into their eyes. You don't just let them walk in and go up to their room and listen to the stereo."

Between the tears, Achman is

"I hope all the other teenagers learn from this experience," she said.
"Ricky was not a bad kid, he was a confused teenage boy. Ricky was under a lot of peer pressure, he was confused and he made a bad choice. And I want the message to go out to kids, don't make a bad choice."

trying to bring some good from her son's death.
She donated his camera and some tissue from his leg for transplant. And she plans to speak out to young people and their parents about the dangers of drugs.

News-Miner



Office of Interior Alaska

ALASKA, SUNDAY, MARCH 30, 1997

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94 Pages

Crime bill targets teen criminals

Names could be public record

By ALLEN BAKER
Associated Press Writer

ANCHORAGE—Homer Police Chief Dennis Oakland thinks his town ought to know about kids who commit serious crimes—including their names.

But teens caught up in the system say identifying them in the local paper will make it harder to turn their lives around. And they say public exposure of misdeeds could become a badge of courage, not a deterrent.

State Rep. Pete Kelly, R-Fairbanks, doesn't care what kids think. He's pushing a bill that would publish names of juveniles accused of serious crimes, along with their addresses and the names of their parents.

Identifying the serious offenders, says Oakland, "would certainly have an impact on the juveniles involved and the parents. I think it would show the individuals were being held accountable and culpable for their actions."

Experts dealing with young offenders agree that publishing names in serious cases is warranted. George Buhite, superintendent of the McLaughlin Youth Center in Anchorage, said the practice could deter the less-serious offenders. "But a good three-quarters of our kids wouldn't care," Buhite said.

Teen-age criminals agree.

"A lot of people commit major crimes to impress their friends," said one young resident at McLaughlin. Said another: "My friends are going to look up at me because I made the paper. It would make my friends laugh."

The teens say disclosure would make it tougher for those seeking to leave crime behind, adding to problems with teachers, parents, prospective employers.

But Kelly says his bill takes a different perspective.

"Look at it from the standpoint of the Wal-Mart manager. Do we, as a state, have the right to shield him from the information that a kid has done 10 burglaries?"

Still, Kelly thinks employers in Alaska communities will give their young people a second chance.

"The assumption that a community does not have the capacity for compassion is, I think, a false assumption," says Kelly.

"This bill is not about (juveniles who do) one dumb thing," he said. "It's about serious dumb things, dangerous dumb things. I think people need to know when you are breaking into someone's house with a 9 millimeter (gun)."

Participants at last year's Governor's Conference on Youth and Justice engaged in spirited debate before recommending some disclosure in juvenile crime cases.

CRIME

Continued from Page B-1

know who these kids are before we can offer help."

The administration and some juvenile justice experts, however, say that releasing youth criminal records has the potential to scar rather than scare children.

Assistant Attorney General Margo Knuth, testifying before the House committee, said the Knowles administration "generally agreed" with Kelly's bill but believed other solutions were more effective.

"Kids are impulsive, hormonally driven (and have) had impulse control," she said. "Basically they're crazy until they get to a certain point in life's experiences."

The administration, Knuth said, recommended using community resources to stem errant behavior—"something where you have eye-to-eye contact and restitution"—rather than allowing the media access to the names of young offenders. Kelly's proposal, House Bill 6, also makes public parents' names and would erase the child's record after five years without a criminal conviction.

Barbara Brink, director of the Alaska Public Defender Agency, warned that HB 6 risks ostracizing children who commit minor crimes. "Parents won't let their kids play with those kids," she testified from Anchorage during the teleconferenced hearing.

Knuth said employers will shy from offering jobs to teens with public records. A productive job can help turn around an offender's life, she said.

Despite the criticism, Kelly was pleased with the discussion. "I didn't come in with this bill carved in granite," he said. "It is a huge step, and we need to listen to what people have to think about it."

HB 6 moves next to the House Judiciary Committee, where Kelly is confident any disagreement with the administration will be smoothed out.

"We'll probably come out of the Judiciary Committee with a handshake agreement on the bill," he said.

Bill would open youths' crime cases to public 1/2A/97

By DOUGLAS FISCHER
Staff Writer

A House committee approved a proposal Tuesday to open juvenile crime cases to public scrutiny. Lawmakers said they are tired of seeing juveniles commit crimes with seeming impunity and hope the measure will increase aid available to troubled children.

The measure, sponsored by Rep. Pete Kelly, R-Fairbanks, would keep a minor's first misdemeanor confidential. But it would lift the cover of confidentiality for any subsequent crimes and any felony acts by children age 18 and under.

The proposal received mostly favorable review from lawmakers at a Tuesday hearing of the House Health, Education and Social Services Committee. It passed without objection.

"Society has been taking it on the chin for too long," said Rep. Joe Gress, R-Anchorage and a committee member. "Why does society have to incur the problem and make the compromises for ... a small group of people who create the problem?"

Local residents testifying at the teleconferenced hearing spoke of their frustration with current laws. "Today we merely tap—not even slap—them on the hand," said Judy Schiffler.

Cloaking juvenile records harms kids' futures, Schiffler said, noting that children can freely commit crimes with no public awareness. Children, she added, would receive better help if churches, schools and the community knew of their misdeeds.

Added Kelly: "You've got to
See CRIME, Page B-2

DEPARTMENT OF HEALTH AND
SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

February 18, 1997

P.O. BOX 110872
JUNEAU, ALASKA 99811-0872
PHONE: 907-465-1170

The Honorable Joseph Green, Chair
House Judiciary Committee
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Chairman Green:

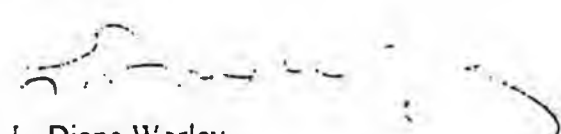
I welcome this opportunity to respond to some of the questions raised in your committee or in the subcommittee on HB 6, HCR 4, and HB 3. Several questions concerned fiscal notes, and I hope that the attachment will answer those questions.

Other questions raised were about what happens to a child's eligibility for IVE federal funds if the child moves from Family Services as a Child In Need Of Aid (CINA) to youth corrections as a delinquent and his or her name and other information is disclosed to the public. One question was about the child's status if they returned to the CINA system. The answer relates back to the source of the information. As long as the information disclosed does not come from the child welfare agency records, IVE funding is not jeopardized.

During a subcommittee hearing on HB 6, Representative Croft asked for the number of delinquency petitions filed but not adjudicated, and the number of times juveniles who were petitioned were determined "not guilty". According to our data, petitions were filed on 2,334 delinquency referrals in FY 96. Of those, 1,390 were adjudicated, with 149 held in abeyance. 511 were either dismissed, withdrawn or waived to adult court. We are not able to tell how many of those 511 were dismissed or withdrawn because the juvenile was found "not guilty" or whether there was insufficient evidence to support a finding of delinquency.

I hope that I have adequately addressed the questions raised by the members of your committee. If not, I would be happy to provide additional information if it is available.

Sincerely,



L. Diane Worley
Director

The table below summarizes the fiscal notes for DFYS components which will be impacted if HB 5 passes. The loss of federal IVE revenue will be caused by the disclosure of information from DFYS juvenile delinquency records because DFYS will not be able to claim those particular funds once information from those records is no longer confidential. The restructuring costs are related to the need to administratively separate the youth corrections programs from the child protection programs, including the associated costs, to prevent the additional loss of funds currently claimed for child protection clients.

Total Costs due to Loss of IVE Revenue and Restructuring						
	IVE Revenue	PCN#	Position	Cost of	Total Cost	Total Cost
	Loss			Restructure	of Restructure	
Southeast:		06-3482	Delete Regional Admin.	(\$82,600.00)		
		new	SW V	\$73,800.00		
	\$44,200				(\$8,800.00)	\$35,400
Southcentral		06-3482	Delete Regional Admin.	(\$92,200.00)		
		new	SW V	\$73,800.00		
	\$157,500				(\$18,400.00)	\$139,100
Northern		06-3213	Delete Reg. Admin.	(\$99,900.00)		
		06-3201	Delete SW V/Bethel	(\$91,100.00)		
		06-3089	Delete SW V/Nome	(\$98,300.00)		
		new	SW V / Fairbanks	\$77,100.00		
	\$113,800				(\$212,200.00)	(\$98,400)
Central Office		new	Admin Clerk II	\$37,300.00		
		new	CPS Admin Officer	\$83,300.00		
	\$30,000				\$120,600.00	\$200,600
Probation Serv.		new	Youth Supt. II	\$73,800.00		
		new	Chief Prob. Officer	\$83,900.00		
		new	3 Admin Clerk II	\$112,000.00		
		new	3 Admin. Asssts.	\$138,600.00		
		new	Juvenile Prop. Off V	\$74,300.00	\$482,600.00	\$482,600
McLaughlin YC		06-3483	downgrade Supt. II	(\$24,100.00)	(\$24,100)	(\$24,100)
Foster Care	\$18,600					\$18,600
Residential Care	\$284,100					\$284,100
Total	\$698,200				\$339,700	\$1,037,900

Fiscal notes are developed on each bill as if that were the only bill to become law. There has been no attempt to duplicate costs across these bills but to accurately represent the cost associated by each bill on its own merits.

The fiscal notes for HG 6 reflect the costs for both the loss of funds and the restructuring because, standing alone, passage of this bill will result in both occurrences.

The fiscal note for HCR 4 currently reflects 0 fiscal impact because the original bill only addressed the separation of records. Since DFYS already maintains separate records for child protection cases and delinquency cases, the bill would have no impact since it does not mandate the disclosure of information. If the proposed CS is adopted, the department will submit a fiscal note reflecting only the cost of restructuring the Division of Family & Youth Services.

HB 3 carries a 0 fiscal note because the information to be disclosed does not come from DFYS records.

TONY KNOWLES, GOVERNOR

DEPARTMENT OF HEALTH AND
SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

P O BOX 110630
JUNEAU, ALASKA 99811-0630
PHONE. (907) 465-3170

March 18, 1997

The Honorable Gene Therriault, Chair
House Finance Committee
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Re: HB 6, HCR 4

Dear Representative Therriault:

Several questions have been raised by members of your committee pertaining to the loss of federal funds anticipated with the passage of HB 6 and HCR 4. The questions include what percentage of minors in foster care who are eligible for IV-E funds are delinquents; how many delinquent youth in foster care would be impacted by HB 6, and whether the restructuring proposed by the Division of Family and Youth Services (DFYS) could be altered to separate delinquents affected by HB 6 to further minimize the loss of federal funds. With your patience, I believe that those questions can most easily be answered if I first provide some background regarding this federal program.

Title IV-E of the Social Security Act was preceded by the AFDC-Foster Care program which reimbursed states for foster care payments for children who were removed from AFDC homes. The reimbursement was based on the fact that the federal government would have paid for the child's care through AFDC and so should also share the costs with the state when the state provided foster care. Reimbursement was based on the state Medicaid reimbursement rate which is 50% for Alaska.

Congress then became concerned that too many children were being removed from their homes unnecessarily and then languished in foster care for years. Consequently, Congress enacted Title IV-E which retained the provisions for reimbursing states a percentage of costs expended to care for children from AFDC homes but added many new requirements intended to protect children from getting "lost" in the system. For example, states are required to make reasonable efforts to prevent removal of a child and are then required to make efforts to reunite the family. If that is not possible, states are required to make efforts to place the child in an alternate permanent placement such as an adoptive home.

states are required to make reasonable efforts to prevent removal of a child and are then required to make efforts to reunite the family. If that is not possible, states are required to make efforts to place the child in an alternate permanent placement such as an adoptive home.

Because Congress recognized that this law placed additional administrative burdens on states, the 50% reimbursement for out-of-home care (both foster care and residential care) costs for AFDC children was retained as "maintenance" federal financial participation (FFP) for children determined to be IV-E eligible, and a new method for claiming "administrative" costs was instituted.

Briefly, the administrative claim to receive the federal reimbursement for some of the additional work required by IV-E is determined by taking 1) the division's cost pool (composed of the salaries of staff providing the required services to clients--currently both social workers and probation officers-- with a portion of the support services provided by managers, state office, Commissioner's office, etc.), times 2) the percentage of staff time expended in "allowable activities" to provide the required services as determined by a monthly time study, times 3) the percentage of clients in out-of-home care who are IV-E eligible.

The division's administrative claim exceeds the maintenance reimbursement. For instance, the maintenance FFP for delinquents is estimated at \$302.7 and the administrative FFP at \$395.5 for FY 98.

In order for a child to be IV-E eligible and, therefore, qualified for maintenance payments and included in the administrative claim percentage, the child must be under the responsibility of the State IV-E agency which is currently the entire DFYS. One of 17 broad requirements that states must meet in order to qualify for any funds under Title IV-E is maintaining confidentiality of information regarding all children and youth under the responsibility of the IV-E agency.

Consequently, delinquents whose names and other information will be disclosed to the public must be removed from the responsibility of the IV-E agency. We have been told by staff from the US Department of Health and Human Services, Administration for Children and Families (ACF) that we need not completely separate services to delinquents from DFYS, requiring the establishment of an entire administrative structure, but may separate them administratively below the level of division director with separate administrators and budgets. The DFYS fiscal notes for HB 6 and HCR 4 outline our proposal for that restructuring.

Now I will attempt to address the questions that have been raised. I regret that I cannot tell you how many youth will be impacted by HB 6 because of the limitations of our current data system which do not allow accurate tracking from foster care placement records to the records containing the final charge for which a minor was adjudicated. However, a review of both our payment system and our client data system tells us that

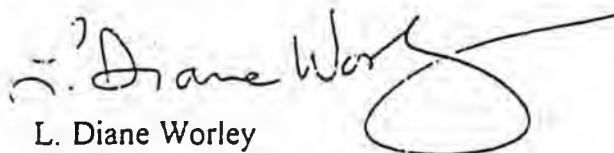
there were 156 delinquents in out-of-home care at the beginning of February, 1997, and that 45 delinquents, roughly 29%, who were in care during that month were IV-E eligible. We also found that 472 children in need of aid in out-of-home care were IV-E eligible, so IV-E delinquents comprised slightly less than 9% of the division's IV-E population for that month.

It has been suggested that, in order to reduce the projected \$700.0 loss in federal funds, we somehow separate juveniles who would be subject to public disclosure from those who commit offenses where disclosure is not required. Perhaps I should first clarify that we may not simply omit those youth from our claims but that disclosure of information on any client in the IV-E agency would make us ineligible to claim any IV-E funds. Youth subject to disclosure must be separated administratively from the IV-E agency.

That said, it is difficult for me to envision an administrative structure which would retain some delinquents in the IV-E agency and serve those who would be subject to HB 6 in a separate agency. All IV-E receipts are based on minors in out-of-home care and in the custody of the designated agency. Delinquents who are in custody and placement under DFYS are frequently the more serious offenders for whom disclosure of information is anticipated and who therefore could not be served by the IV-E agency, so it is doubtful that our savings in IV-E would offset the costs of trying to serve delinquent youth in two separate sections. Separating youth who commit disclosable offenses from those who do not would be extremely difficult administratively, and serving delinquents by two separate entities would require some duplication of the administrative structure so that each entity contained both probation officers and management staff which would increase the cost of restructuring.

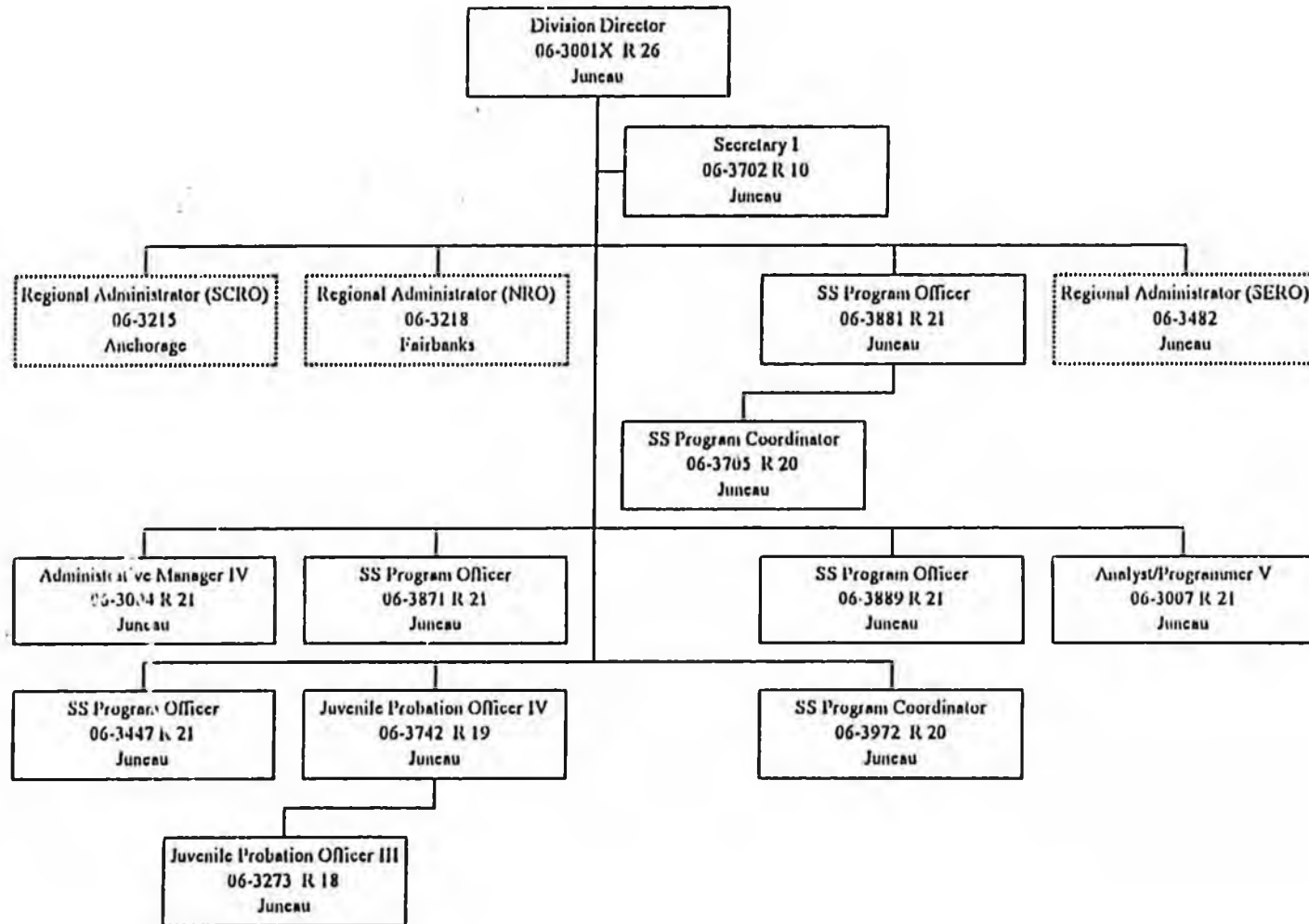
I am certainly open to considering any possibilities for reducing the loss of federal funds. I also welcome any additional questions the committee may have.

Sincerely,

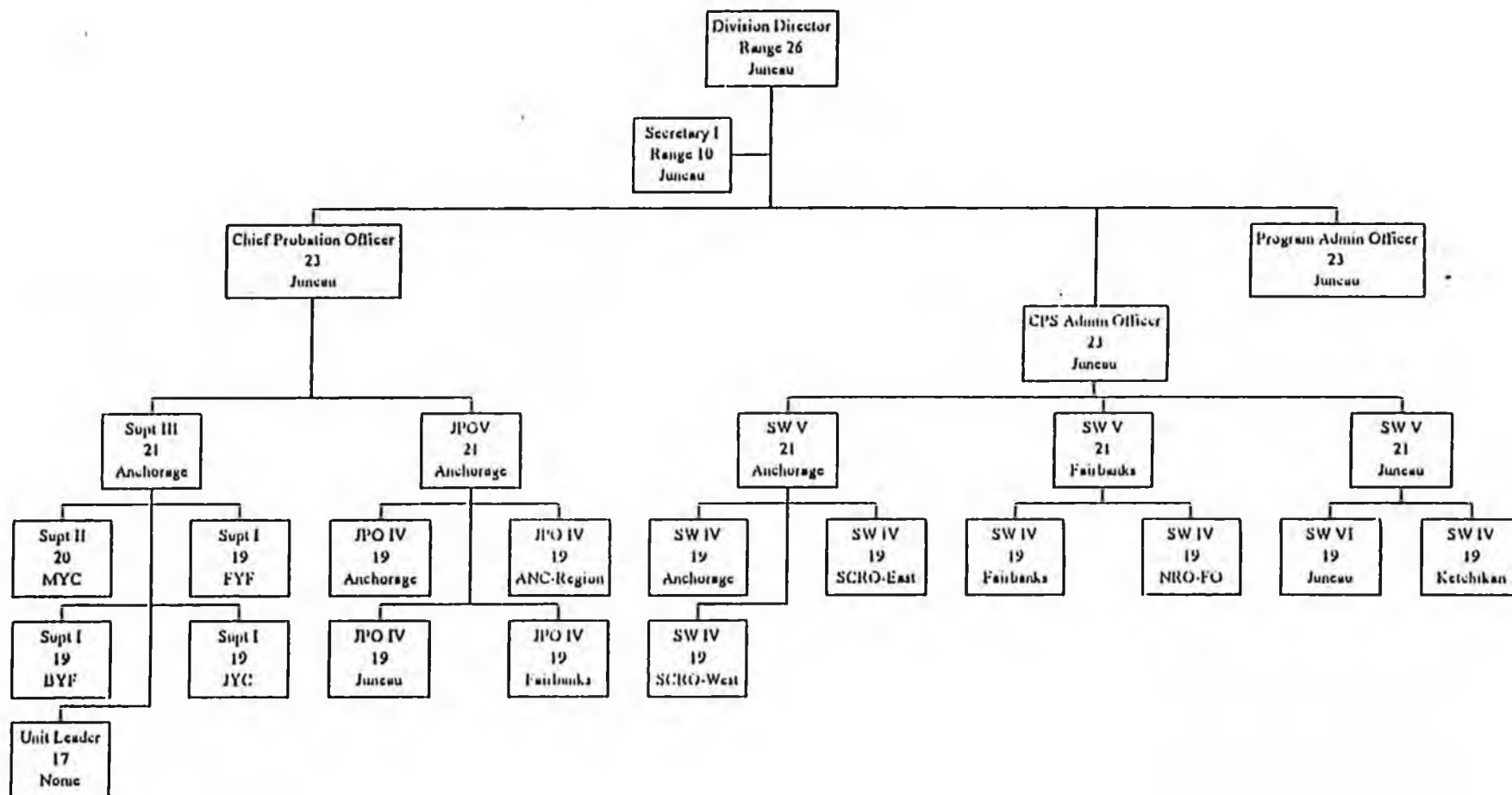
A handwritten signature in cursive script that reads "L. Diane Worley". The signature is written in dark ink and is positioned above the typed name and title.

L. Diane Worley
Director

DEPARTMENT OF HEALTH & SOCIAL SERVICES
 Family & Youth Services BRU
 Central Office/ #259
 July 24, 1996



Department of Health and Social Services
 Division of Family and Youth Services



HB

7

SENATE COMMITTEE REPORT

0:4137

DATE: 2/17/97

FURTHER: Finance

DATE TURNED IN TO OFFICE: 5-8-98

Judiciary Committee considered CS FOR HOUSE BILL NO. 7(JUD)

VICTIM/JUVENILE OFFENDER MEDIATION

and recommends:

- be replaced with S CS CSHB 7 (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 change
 - new: SCR# 30

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Jean Hamell</i>	<input checked="" type="checkbox"/>				
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
<i>Keane</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>John Tala</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>LAW/CIVIL DIST 1-4</i>	<i>7-2-98</i>	<input checked="" type="checkbox"/>	
<i>HHS - DFYS</i>	<i>1-26-98</i>	<input checked="" type="checkbox"/>	
<i>AS FORTHCOMING</i>		<input checked="" type="checkbox"/>	
<i>Courts</i>	<input type="checkbox"/>		
<i>DOA-OPA</i>	<input type="checkbox"/>		
<i>DOA-PDA</i>	<input type="checkbox"/>		

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

[]

note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 8
Bill Version: SCSCSHB7(JUD)
(S) Publish Date: 5/8/98

Revision Date: 01/23/98
Title: Establish Dispute Resolution Centers
Sponsor: Representative Porter
Requestor: Senate (JUD)

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

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

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

5/25/98

Prepared by: Russ E. Webb, Deputy Commissioner
Division: Family & Youth Services

Phone: 465-3030
Date: 01/26/98

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

Date: 1/26/98

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FISCAL NOTE

No. 7
 Bill Version: SCS CS HB 7 (TJD)
 BII(S) Publish Date: 5/8/98

STATE OF ALASKA
 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>
Title <u>... authorizing... community dispute resolution</u>	BRU <u>Criminal Division/Civil Division</u>
centers <u>disputes between juvenile offenders and their victims</u>	Component <u>Criminal Division/Civil Division</u>
Sponsor <u>Representative Porter</u>	<u>1st-4th Jud Dist. Human Services</u>
Requester <u>Senate Judiciary</u>	Component Serial No <u>2198-99/2261/79/02/2208</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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Full-time	0	0	0	0	0	0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 47.12 to authorize entities organized for the purpose of providing community mediation services to establish and operate community dispute resolution centers to resolve disputes between minors who are alleged to have committed offenses and the victims of those offenses. The bill also provides that the disposition of a juvenile court matter may include use of community dispute resolution centers. Use of a center would be voluntary for both juvenile offenders and their victims. Services provided by the centers will be either without charge, or based on the participants' ability to pay.

This bill would not have a fiscal impact on the Department of Law, because community dispute resolution centers would be operated by community entities and because of the voluntary nature of the bill's dispute resolution process.

Prepared by Jean M. Kasson
 Division Attorney General's Office

Approved by Commissioner Bruce M. Botelho, Attorney General
 Agency Department of Law

Phone 465-5370
 Date 2/2/98
 Date 2/2/98

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Fairbanks Legislative Information Office
119 N. Cushman Street ~ Suite 101
Fairbanks, Alaska 99701
(907)452-4448

To: Senate Jud./Sen Taylor Fax: 465 3922 Phone: _____
From: Fairbanks MO

Written comments from Mr Robert Knight on
Sen. Judiciary TC 2/4/98 130pm

Date Sent: 2/4 Time: 2:10 pm

Thank You,
Christie
Christianne L. Zaverl
Information Assistant

Statement of Robert H. Knight, Jr. in Support of Passage of HB-7
Teleconference: Senate Judiciary Committee
Fairbanks, Alaska -- February 4, 1998

My name is Bob Knight. Thank you for the opportunity to testify on behalf of HB - 7. HB - 7 provides for a Victim Offender Mediation Program -- also called VOMP, and it provides for protection from liability for those participating in Youth Court Programs.

Last year, I was privileged to go to the graduation of the Fairbanks Youth Court Programs student advocates and judges. These young people represent some of the most promising individuals in Alaska. HB - 7 will provide a necessary component of support.

VOMP has been around awhile. Nikishka Stewart has run an superb program in Anchorage for some years now. I took the training course there two years ago and was tremendously impressed with the overall concepts, the commitment, and the details.

My active participation in alternative dispute resolution goes back at least 36 years. I was involved in what we now call ADR before it had a name. Interestingly to me in retrospect, I learned the basic principles in the U.S. Marine Corps.

At Yale, Virginia Law, Georgetown Law, as a member of the Virginia and District of Columbia Bar Associations since the 1970's, as a member of the Alaska Bar's ADR section, as a certified American Arbitration Association member and panelist, the Alaska Dispute Settlement Association, the Society of Professionals in Dispute Resolution, the Academy of Family Mediators, and the Association of Family and Conciliation Courts, as well as a participant in formal course work and seminars. I have served as a Reporter for the ADSA Standards Committee and on its Credentialing Committee. Altogether, I think it is fair to say I know at least a little about ADR.

Experientially, I have worked in all three branches of the Alaska State Government. Most recently, I was privileged to serve on Senator Wilken's staff during his first session here. I served as an aide to the Governor and a Division Director at DCRA. In the federal government, I have served on the President's Management Council, the Department of Justice, the Environmental Protection Agency, the Department of the Interior, and the Department of the Treasury. I have spent some time on Capitol Hill and in the federal court system. I was for a while a Special Assistant U.S. Attorney.

My experience in ADR extends to the non-profit and private sectors in Alaska. I have worked in rural Alaska as well as in the railbelt. Currently, I am completing an Interdisciplinary Doctoral program involving Educational Leadership, law, policy, and public administration. My dissertation involves an analysis of the *Tobeluk v. Lind* Settlement sometimes known as the *Molly Hootch* case.

HB - 7 brings with it a \$0 fiscal note. Alaskans have been involved formally in ADR and mediation through ADSA for over ten years. I would urge this Committee and the entire Legislature to sign on as co-sponsors of this legislation. Its unanimous passage in the House last year indicates, I would respectfully suggest, its bipartisan or nonpartisan nature and importance.

Why should Alaska Legislators support this bill?

Mediation is an idea whose time has come. Several years ago, the American Bar Association determined that 86% of Americans did not have access to the American judicial system. Money, distance, and intimidation were the three most important reasons

for that. History shows that orderly dispute resolution is a critical part of any Civil Society from the beginnings of history.

A Civil Society is marked throughout history by a rule of law. Our U.S. Supreme Court building has the words: Equal Justice Under Law stamped over its entrance. ADR, particularly mediation, can bring closure as well as resolution of disputes. Mediation must be voluntary and it must be confidential. Other than that, it has few special rules.

VOMP lets victims and perpetrators communicate about the events which bring them together. It provides an opportunity for closure for the victims of the perpetrators actions. It provides perpetrators an opportunity to deal with the realities of their acts. It brings humanity back into a process which, as much for the sake of efficiency as anything, used to work hard to exclude the human side of the equation

Some lawyers feel mediation will cut into their practice. It does not. Mediation is not a negotiated settlement in the sense lawyers do negotiated settlements. Some judges feel mediation is about the same as a settlement conference like they hold in chambers.

In my view, it is not. Mediation simply brings disputants together to resolve their differences. It does not make things 'all better' nor is it intended to do that. It is a civil process for resolving disputes so that people and society can get on with their lives.

HB - 7 represents a small, but important step toward providing Alaskans with the mechanisms to resolve disputes effectively, efficiently, and at low cost. VOMP training is thorough and effective. Case supervision is more than adequate and effective. VOMP gives both victims and perpetrators the opportunity to put the past behind them.

Mediation is an idea whose time has come. I respectfully urge the members of this Committee to take an active interest in learning as much about it as they can when the opportunity presents itself. ADSA is sponsoring an ADR conference in April. I hope you and your staffs will find time to attend.

You have important mediation resources in Alaska. Suzanne DiPietro on the Judicial Council Staff, Kathy Anderson, Mike Hostina, Julie Smith, MaryAnn Dearborn all of ADSA, and many others are knowledgeable, experienced, and very much involved.

Mediation has many applications which can save the State money and time. The federal government increasingly employs it at significant savings. Negotiated regulation development represents another area in which mediation can save time and money.

Mediators are not advocates, promoters, or marketers. They are professional neutrals: facilitators for problem solving. Many areas of the nation are starting to realize what an incredibly important resource they can be to a community. The District of Columbia Bar is helping develop a strong ADR presence in the District.

The Member of this Committee can, and I believe should, play an important role in advancing ADR in Alaska. Alaska Natives have employed ADR techniques successfully for an awfully long time. Folks like William Uri use it effectively to help resolve tough international disputes. Many types of disputes are often settled effectively through ADR rather than in the Courts. When Alaska's judges and lawyers fully understand the uses and limits of ADR, I believe they too will become advocates for it. Your leadership will help or hinder that development. I hope each of you becomes personally involved for Alaska.

HB -7 provides a small window of opportunity for more Alaskans to get involved with and to utilize ADR mediation in a controlled environment. I respectfully urge you

HB - 7: Knight Statement in Support of Passage -- February 4, 1998

to report the bill favorably and to support its passage in the Senate. At some future date, as your public service careers draw to a close, it will be something to look back at with pride.

Thank you for the opportunity to speak in support of HB - 7's enactment.



STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

RECEIVED
FEB 6 1998
Ans'd.....

DATE: 2-4-98

Please accept the enclosed original(s) of written testimony for the Senate Judiciary Cmte teleconference hearing that was scheduled on 2-4-98.

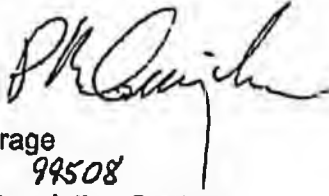
A copy of this testimony was transmitted to your committee via fax on 2-4-98.

Thank you,

Christanne Zaverl
Info Ass't - Files L10

February 3, 1998

TO: Senate Judiciary Committee
Alaska State Legislature

FROM: Dr. Patrick M. Cunningham 
Associate Professor
University of Alaska Anchorage
3211 Providence Dr. 99508

RE: HB 7 Community Dispute Resolution Centers

TESTIMONY IN SUPPORT OF HB 7

Thank you very much for allowing me the opportunity of providing testimony in support of this important legislation. I am a professor at the University of Alaska Anchorage, a member of the McLaughlin Youth Center Community Advisory Board, and a founding Board member of the Community Dispute Resolution Center in Anchorage. I have also worked as a professional in the juvenile justice system for over ten years. The passage of HB 7 is vital to our continuing efforts to provide restorative justice to victims of crime. Our Center is doing a marvelous service mediating restitution contracts between victims and juvenile offenders, and is a contributing member of the Anchorage "Make a Difference" juvenile anti-crime effort, which is beginning its third year of operation. This legislation is necessary to its continued growth, and the development of similar programs throughout the state.

These programs are low cost and community-based, drawing heavily from dedicated volunteer citizens who want to be active participants in removing crime from their neighborhoods. Much of the financial support for our Anchorage Program has come from the Municipality, University of Alaska Anchorage, Division of Family and Youth Services, community businesses, non-profit organizations, and individual citizens. There are over 200 similar programs in the United States and Canada, and over 100 programs in Europe demonstrating effectiveness as an alternative response to first and second time offenders. Findings from these programs have demonstrated that when a victim is given an opportunity to meet with the offender, over 2/3rds wish to participate. The restitution contract is very durable and many programs have reported over 95% successful completion. Victim appreciation for this justice model is well documented. Offenders are confronted directly with the destructive results of their crime, held accountable, requiring that they take action to "make amends" to victims and the community, and closely monitored to assure that restitution is given. Victims are empowered by having the opportunity of directly participating in the justice process rather than the standard criminal justice process which tends to be an offender-oriented system.

This legislation will institutionalize community dispute mediation centers and set forth standards to be followed. This intervention's strength is that it represents a partnership between government, business, education, voluntary agencies, local communities, and individual citizens to deal with the violence of crime, by emphasizing swift and early intervention, offender accountability, victim's rights, and restorative justice.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSHB 7 (JUP)

Revision Date (Note if correction) _____	Dept. Affected _____	Law _____
Title <u>... authorizing... community dispute resolution</u>	BRU _____	Criminal Division/Civil Division _____
centers... disputes between juvenile offenders and their victims	Component _____	Criminal Division/Civil Division _____
Sponsor <u>Representative Porter</u>		1st-4th Jud Dist, Human Services _____
Requester <u>Senate Judiciary</u>	Component Serial No. _____	<u>2198-99/2261/79/02/2208</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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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	0	0	0	0	0	0
Part-time						
Temporary						

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

This bill amends AS 47.12 to authorize entities organized for the purpose of providing community mediation services to establish and operate community dispute resolution centers to resolve disputes between minors who are alleged to have committed offenses and the victims of those offenses. The bill also provides that the disposition of a juvenile court matter may include use of community dispute resolution centers. Use of a center would be voluntary for both juvenile offenders and their victims. Services provided by the centers will be either without charge, or based on the participants' ability to pay.

This bill would not have a fiscal impact on the Department of Law, because community dispute resolution centers would be operated by community entities and because of the voluntary nature of the bill's dispute resolution process.

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

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(Rev 9/97) 98(Inform) 119/OMB

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CS HB7 (JUD)

Revision Date: 01/23/98
 Title: Establish Dispute Resolution Centers
 Sponsor: Representative Porter
 Requestor: Senate (JUD)

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

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY99	FY00	FY01	FY02	FY03	FY04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

POSITIONS	FY99	FY00	FY01	FY02	FY03	FY04
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

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

5/23/98

Prepared by: Russ E. Webb, Deputy Commissioner
 Division: Family & Youth Services

Phone: 465-3030
 Date: 01/26/98

Approved by Commissioner: *Karen Pecdue*
 Agency: Department of Health & Social Services

Date: 1/26/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: HB 7

Revision Date: 01/29/98 Dept. Affected: Public Safety
 Title: ...community dispute resolution centers... between juvenile offenders and victims BRU: Alaska State Troopers
 Sponsor: Rep. Porter Component: _____
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 0799

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

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

FUNDING: (Thousands of Dollars)

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

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

Prepared By: F/Sgt. Don Bowman Phone: 269-5084
 Division: Alaska State Troopers Date: 01/29/98
 Approved by Commissioner: Ronald L. Otte *Dee Smith* Date: 2/2/98
 Agency: Department of Public Safety

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Alaska State Legislature

Representative Brian S. Porter

HOUSE MAJORITY LEADER

MEMBER
HOUSE JUDICIARY COMMITTEE
HOUSE RULES COMMITTEE
HEALTH, EDUC. & SOCIAL SERVICES COMMITTEE
LEGISLATIVE COUNCIL JOINT COMMITTEE



DISTRICT 20

SESSION:
STATE CAPITOL ROOM 216
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-4930
FAX: (907) 465-3834

INTERIM:
16 W. 4TH AVE., SUITE 360
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-8197
FAX: (907) 258-5510

SPONSOR STATEMENT

For

CSHB 7(JUD) COMMUNITY DISPUTE RESOLUTION CENTERS

Victim offender mediation is a process in which trained volunteer mediators bring victims and juvenile offenders face to face to discuss the property loss and emotional damage caused by the crime. The principle goal of this meeting is to obtain an agreement between the victim and the offender on a restitution contract.

Victim offender mediation is part of the larger concept of restorative justice. With this approach offenders take personal responsibility for repairing the damage they have caused.

WHAT ARE THE BENEFITS?

FOR VICTIMS:

- Victims report great satisfaction with mediation process. It allows them to confront the offender with the very real personal impact of their crime.
- Victims report satisfaction with the restitution agreements because they are tailor made to repair their specific loss and their needs for restitution.
- Victims appreciate having their case resolved in a timely and efficient manner with their maximum involvement.

FOR OFFENDERS:

- Offenders have the chance to talk with a victim and to make amends for their crime.
- Offenders are more willing to fulfill the restitution agreements that they helped create.
- Offenders' parents get involved.

FOR THE COMMUNITY:

- The public sees timely and more meaningful responses to juvenile crime.
- Volunteer community mediators have a direct impact on youth.
- National studies of victim offender mediation programs found that offenders committed considerably fewer future crimes.

Alaska State Legislature

Representative Brian S. Porter

HOUSE MAJORITY LEADER

CHAIRMAN

HOUSE SPECIAL COMMITTEE ON TELECOMMUNICATIONS

MEMBER

HOUSE JUDICIARY COMMITTEE

HOUSE RULES COMMITTEE

HEALTH, EDUC. & SOCIAL SERVICES COMMITTEE

LEGISLATIVE COUNCIL JOINT COMMITTEE



DISTRICT 20

SESSION:

STATE CAPITOL, ROOM 214

JUNEAU, ALASKA 99501-1182

PHONE: (907) 465-4930

FAX: (907) 465-3834

INTERIM:

716 W. 4TH AVE., SUITE 360

ANCHORAGE, AK 99501-2133

PHONE: (907) 258-8197

FAX: (907) 258-5510

SECTIONAL FOR CSHB 7(JUD) COMMUNITY DISPUTE RESOLUTION CENTERS

The bill establishes community dispute resolution centers as an alternative for informal resolution and disposition for certain offenses committed by minors. Further, this bill allows judges to use these resolution centers in conjunction with restitution orders made when a minor is adjudicated a delinquent.

Bill section 1, amends AS 47.10.020(a)(1)(A) to authorize referral of a minor to a community dispute resolution center for purposes of informal adjustment or disposition of a matter by the Department of Health & Social Services following preliminary inquiry.

Bill section 2, amends AS 47.10.080(b)(4) to permit a judge who has adjudicated a minor to be a delinquent and ordered the minor in appropriate cases, to pay restitution, to require the minor to use the services of a community dispute resolution center to resolve a dispute involving the amount or manner of payment of the restitution.

Bill section 3, adding a new bill section that would make employees, volunteer and board of directors for youth courts immune from suits in a civil action except in cases of willful or wanton misconduct. Established youth courts, at the present time, are not immune; this section would correct that inequity.

Bill section 4, adding a new bill section, AS 47.10.267, which spells out the procedures by which an entity organized for the purpose of providing community mediation services may operate a community dispute resolution center qualifying under this Act to provide services for minors and the victims of their offenses. Moreover, establishes that all communication within the mediation process is confidential and privileged. Withdrawal from the dispute resolution process either by the offender or the victim is allowed and they may seek judicial or administrative redress. Employees, Volunteers and the board of directors for the dispute resolution center are immune from suit in a civil action except in cases of willful or wanton misconduct.

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 7

Revision Date: _____
Title: Establish Dispute Resolution Centers
Sponsor: Representative Porter
Requestor: House (JUD)

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

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

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

5/30/97 Prepared by: L. Diane Worley, Director Phone: 465-3191
Division: Family & Youth Services Date: 01/30/97
Approved by Commissioner: Karen Perdue, Commissioner Date: 1/30/97
Agency: Department of Health & Social Services

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: HB 7

Revision Date: _____ Dept. Affected: Public Safety
 Title: Victim/Juvenile Offender Mediation. BRU: Alaska State Troopers
 Component: Detachment
 Sponsor: Representative Porter
 Requestor: H. Judiciary COMPONENT SERIAL NO. 0799

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

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

FUNDING: (Thousands of Dollars)

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill will not have a fiscal impact on the Division of Alaska State Troopers.

Prepared By: Lt. Dan Lowden Phone: 269-5412
 Division: Alaska State Troopers Date: January 10, 1997
 Approved by Commissioner: *Ronald L. Otte* Date: 1/29/97
 Agency: Ronald L. Otte, Department of Public

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 7

Revision Date: _____
Title: Victim/juvenile offender mediation
Sponsor: Rep. Porter
Requestor: House Judiciary

Dept. Affected: Alaska Court System
BRU: Trial Courts
Component: _____
COMPONENT SERIAL NO. 788

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
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 97) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel
Agency: Alaska Court System
Approved by: Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System

Phone: 264-8228
Date: 01/29/97
Date: 01/29/97

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Page 1 of 1

FISCAL NOTE(S)

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 7

Revision Date: _____
Title: "An Act authorizing establishment of community dispute resolution centers..."

Department Affected: Administration

BRU: Office of Public Advocacy

Component: Office of Public Advocacy

Sponsor: Rep. Porter

Requestor: (H) Jud

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
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 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Office of Public Advocacy.

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

Phone: (907) 264-1414
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

(Signature)
Date: 1/11/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CS HB7 (JUD)

Revision Date: 01/23/98
 Title: Establish Dispute Resolution Centers
 Sponsor: Representative Porter
 Requestor: Senate (JUD)

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

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY99	FY00	FY01	FY02	FY03	FY04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0



POSITIONS:

POSITIONS	FY99	FY00	FY01	FY02	FY03	FY04
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

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

 Prepared by: Russ E. Webb, Deputy Commissioner
 Division: Family & Youth Services

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

Phone: 465-3030
 Date: 01/26/98
 Date: 1/26/98

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**STATE OF ALASKA
1997 LEGISLATIVE SESSION**

BILL NO. HR 7

Revision Date: _____
 Title: "An Act authorizing establishment of community dispute resolution centers..."
 Sponsor: Rep. Porter
 Requestor: (H) Jud

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
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 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact on the Public Defender Agency.

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

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: _____

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 7

Revision Date: _____ Dept. Affected: Department of Law
 Title: ... authorizing ... community dispute resolution BRU: Criminal Division/Civil Division
centers ... disputes between juvenile offenders and their victims Component: Criminal Division/General Legal Services
 Sponsor: Rep. Por. er
 Requester: House Judiciary COMPONENT SERIAL NO. 2085/2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 47.12 to authorize entities organized for the purpose of providing community mediation services to establish and operate community dispute resolution centers to resolve disputes between minors who are alleged to have committed offenses and the victims of those offenses. The bill also provides that the disposition of a juvenile court matter may include use of community dispute resolution centers. Use of a center would be voluntary for both juvenile offenders and their victims. Services provided by the centers will be either without charge, or based on the participants' ability to pay.

This bill would not have a fiscal impact on the Department of Law, because community dispute resolution centers would be operated by community entities and because of the voluntary nature of the bill's dispute resolution process.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone: 465-5370
 Division: Administrative Services Division Date: 1/24/97
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/24/97
 Agency: Department of Law

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alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1981 (907) 279-2526 FAX (907) 276-5046
http://www.state.ak.us/local/akpages/COURTS/AJC/home.htm E-Mail: 72302.1261@compuserve.com

EXECUTIVE DIRECTOR
William T. Cotson

January 22, 1997

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Representative Brian Porter and
Members of the House Judiciary Committee
Alaska Legislature
State Capitol
Juneau, AK 99801

Via FAX: 907/465-3834

Dear Representative Porter and Members of the House Judiciary Committee:

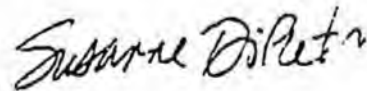
Thank you for your consideration of House Bill 7, which formally establishes procedures under which juvenile offenders and victims can be referred to victim-offender mediation. This bill is necessary and important for a number of reasons:

- The bill formally establishes the confidentiality procedures under which juvenile victim-offender mediation programs now operate informally. Without this provision, mediation programs will continue to be vulnerable to expensive and damaging legal challenges. As an example, about a month ago an Anchorage superior court judge issued a subpoena for mediation records from Anchorage's juvenile victim-offender mediation program. The program was forced to hire a lawyer to file a motion to quash the subpoena;
- The bill formally establishes reasonable protection from suit for citizens who volunteer their time to these worthwhile programs. Without this measure of protection, volunteers will continue to be vulnerable to expensive and damaging lawsuits;
- The bill creates a mechanism by which the court system can refer offenders to mediate restitution contracts. No other law of which I am aware explicitly gives the court this valuable option;

- The bill will encourage creation of victim-offender programs statewide by clearly establishing the necessary process and standards. I can tell you from experience that creating the Anchorage pilot project involved an enormous amount of volunteer work and coordination between a dozen state agencies and other entities. This bill gives other groups a "running start" which might make the difference between creating a program or not;
- Finally, the bill reserves the victim's right to decide whether mediation is right for him or her. It is important that victims who participate in victim-offender mediation programs do so voluntarily.

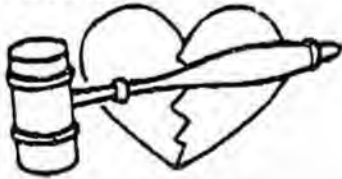
These are just a few highlights of this important legislation. If you have questions or wish to discuss the Anchorage program further, please do not hesitate to call. Thank you for your time.

Sincerely,



Susanne Di Pietro
Staff Attorney

VICTIMS



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

January 21, 1997

Dear Representative Brian Porter,

As a founder of Victims for Justice and the Victim-Offender mediation project. I strongly support HB 7 Community Dispute Resolution Centers.

The main purpose of this legislation is to replace the nonparticipative courtroom with a new environment. Crime is viewed as a conflict between two people. Mediation, as process for mutual resolution of conflict, is more likely than a courtroom to allow for participation and reconciliation.

Mediation offers other benefits over and above reaching an agreement on restitution. The victim may feel some healing from the crime. The juvenile may feel more accountable and as a result may be more likely to comply with the restitution agreement. By intervening early, the first-time offender might be less likely to commit future violent acts.

It is anticipated that the Alaska Victim Offender Mediation Project will have a profound impact on future juvenile crime in Alaska and on the victims of crime. Mediation may succeed where juvenile justice has failed in reducing the number of violent youths in our society.

Sincerely,

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

Janice Lienhart, Executive Director
Victims for Justice



ALASKA DISPUTE SETTLEMENT ASSOCIATION

P.O. BOX 242922 • ANCHORAGE, AK 99524-2922 • (907) 258-0624

January 20, 1997

By facsimile and US mail

Representative Joe Green
Chair, Judiciary Committee
House of Representatives
Alaska State Capitol
Juneau, AK 99801

Representative Brian Porter
House of Representatives
Alaska State Capitol, Room 216
Juneau, AK 99801

Representatives Mark Hanley and Gene Therriault
Co-Chairs, Finance Committee
House of Representatives
Alaska State Capitol
Juneau, AK 99801


Dear Gentlemen:

Our Board has unanimously directed that I write on their behalf in support of the establishment of community dispute resolution centers under House Bill 7. As a professional association of mediators, arbitrators, educators, hearing officers, and others engaged in dispute resolution processes, we firmly believe our state's communities will only benefit from such a resource

The benefits of these centers, as defined under HB 7, will enhance our state's efforts to deter inappropriate juvenile conduct and bring restitution to victims who have been wronged. We commend you for your support and urge you to pass the bill through committee. Should you need further information concerning alternative dispute resolution processes, their use and application, please do not hesitate to contact us.

Best regards,

ALASKA DISPUTE SETTLEMENT ASSOCIATION

By: 
Kathleen G. Anderson,
President

cc: ADSA Board of Directors



UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive
Anchorage, Alaska 99508-8230

DEPARTMENT OF SOCIAL WORK

TO: Representative Brian Porter
Alaska State Legislature

FROM: Dr. Patrick M. Cunningham
Associate Professor
University of Alaska Anchorage

RE: HB 7 Community Dispute Resolution Centers

TESTIMONY IN SUPPORT OF HB 7

Thank you very much for introducing and sponsoring this Bill. I am a founding Board member of the Community Dispute Resolution Center in Anchorage and believe that the passage of HB 7 is vital to our continuing efforts to provide restorative justice to victims of crime. The Center is doing a marvelous service mediating restitution contracts between victims and juvenile offenders, and is a vital member of the city's "Make a Difference" juvenile anti-crime effort. This legislation is necessary to its continued growth, and the development of similar programs throughout the state. Our long range plan is to institutionalize this intervention in both the adult and juvenile criminal justice system.

These programs are low cost and community-based, drawing heavily from dedicated volunteer citizens who want to be active participants in removing crime from their neighborhoods. Much of the financial support for our Anchorage Program has come from the Municipality, University of Alaska Anchorage, community businesses, non-profit organizations, and individual citizens. There are over 200 similar programs in the United States and Canada, and over 100 programs in Europe demonstrating effectiveness as an alternative response to first and second time offenders. Victim appreciation for this restorative justice model is well documented. Offenders are confronted directly with the destructive results of their crime, held accountable, requiring that they take action to "make amends" to victims and the community, and closely monitored to assure that restitution is given. Victims are empowered by having the opportunity of directly participating in the justice process.

I wish you "God speed" in your efforts to reduce crime in our State.

Sincerely yours,

A handwritten signature in cursive script that reads "Patrick M. Cunningham".

Patrick M. Cunningham



Mat-Su Youth Court

1801 Parks Highway, Suite C-06
Wasilla, AK 99654
(907)373-5193 • FAX 373-5393

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Div. of Family & Youth Svcs.

Suzane Lassiter, Prob. Ofc.
Div. of Family & Youth Svcs.

Carol Kane, Dir. of Instruction
Mat-Su School District

Dwight Probasco, Principal
Wasilla High School

Peter Burchell, Pncipal
Mat-Su Alternative Schools

Coyia Sweet, Drug Free Sch.
Mat-Su School District

STAFF

M. James Messick
Youth Court Administrator

Ms. Lisa Makar
Probation Officer

Ms. Cheryl Rodriguez
Secretary

February 1, 1997

Hon. Brian Porter
Alaska State Capitol
Juneau, AK 99801-1182

Dear Brian:

I have just completed my review of HB#7 which, among other provisions, would extend immunity from a civil action to board members, employees, and volunteers of a Youth Court when performing their duties in a good faith manner.

This legislation is appropriate. Although the Mat-Su Youth Court has not had an action filed against it, providing immunity as described in the bill makes Youth Courts statewide stronger, enables community leaders to provide support by being a member of its Board of Directors without fear of exposure to a civil action, and finally, does extend protection in the event an action ever is initiated.

Your bill is also very timely. While I am not completely familiar with Dispute Resolution Centers, I do know that Youth Courts are increasing throughout the State, since the State cannot adequately handle the minor, first-time offenders. Formed about five years ago, the Anchorage Youth Court provided the model for us. In addition to the Mat-Su Youth Court, other Youth Courts in varying stages of development have begun during 1996 in Fairbanks, Kodiak, the Kenai, Juneau, Kotzebue, and possibly in Sitka. These programs provide consequences to juvenile offenders that the State cannot do. Your bill providing immunity will strengthen each of these efforts.

Please keep me posted on the progress of HB#7, the committees to which it is assigned, etc., so that we may urge its favorable consideration.

Thank you for your efforts with this bill.

Sincerely yours,

James Messick
Cheryl Rodriguez
M. James Messick

Nikishka Stewart
2440 East Tudor Road, #252 - Anchorage, AK 99507

(907) 563-4975 hm, (907) 274-1542 wk, email: akhsikin@aol.com

April 23, 1997

Senator Robin Taylor
State Capital
Juneau, AK 99801-1182

Dear Senator Taylor:

I am writing this letter in support of CSHB 7 (Jud), "An Act authorizing establishment of community dispute resolution centers to foster the resolution of disputes between juvenile offenders and their victims..." I urge you to move this bill to the Senate floor for consideration before the time runs out on this legislative session.

I write this letter representing only myself, a lifelong Alaskan tremendously invested in and concerned about our state. I am, however, the Executive Director of the Community Dispute Resolution Center in Anchorage and therefore have a front-line understanding of how desperately this legislation is needed.

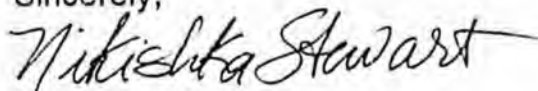
I see firsthand the anger and pain of crime victims and the hopelessness of youth offenders. I know the justice and healing possible when victims and offenders meet face to face to confront the youth and discuss restitution for the victim.

Our Victim Offender Mediation Program has given our community the power to say "NO MORE!" to youth offenders and to offer a healing and helping hand to victims of crime. Victim services like this are so critically needed in Alaska. The passage of this bill will ensure that community centers can be established across our state and that they will have the legislative support necessary to provide quality services for many years to come.

This legislation will provide effective victim services, help reduce youth crime and its impacts, and bring communities together in addressing their problems with their own resources and strengths.

I urge you to communicate your support of community solutions to community problems by moving CSHB 7 (Jud) to the Senate floor immediately. Victims of crime are waiting and youth crime is not going away.

Sincerely,



Nikishka Stewart

Donor News

November 1996

VOMP success rate 95% and up!

What is a successful resolution to a juvenile crime? In the Victim Offender Mediation Program success is a victim of a juvenile crime feeling safer, stronger, and restored after meeting with an offender and discussing what happened and why. Success is an offender taking personal responsibility and being held personally accountable for his or her crime and completing restitution to the victim.

Success is hearing victims say, "I'm glad I did this. I got my peace of mind back as well as my restitution." or "This kid lives in my neighborhood, without mediation I would have been angry and afraid for a long time. Now I feel like we've resolved things permanently."

Success is seeing a young person turn things around and hearing from his or her parent, "My child is back on the right track thanks to going through a victim-offender mediation. I really appreciate your program."

Success is measured in the feeling that volunteer mediators have in giving back to their community and in truly "Making a Difference" in their neighborhoods.

Success is also measured in the **percentage of victim-offender restitution contracts completed annually, 95 - 99%**. As opposed to a court-ordered completion rate in traditional juvenile courts of 20-30%.

From January 1 through September 30, 1996, 47 juvenile offenders were referred to victim offender mediation. Fifty (50) victims received services as a result of those referrals.

Twenty-one (21) mediations were held between victims and offenders and 18 contracts have either been successfully completed or are being monitored for completion. These referrals resulted in a total of 64 cases being evaluated, as a result of multiple victims or offenders in particular crimes.

As a result of mediation, over ~~\$2000.00~~ ^{\$10,000} in restitution has been paid to victims and over 100 hours of community work service has been completed. ^{as of 12/3}

Fifty-four (54) of these cases were diversion level referrals, assisting Juvenile Intake by providing an effective referral option for dealing with an overwhelming caseload. Seven of these cases (7) were probation level offenses where mediation was a component of the adjudication process. One case (1) was a parent-adolescent referral.

The breakdown of the offenses is as follows: 33% were burglary, 25% were youth on youth assaults or conflicts, 24% were criminal mischief, 11% were theft, and 7% were trespass.

The Community Dispute Resolution Center, Inc. has experienced unprecedented client and community support in its Victim Offender Mediation Program. Why it is so effective is because it is a common sense idea based on accountability, responsibility and restitution and it involves and supports victims by meeting their needs to be heard, included, and restored.



"Why did you hit my brother?" - a case study in restorative justice

**The names of participants and certain case details have been changed to protect confidentiality.*

No one can tell a little 8 year old girl that things will be alright after she sees her 11 year old brother assaulted right in front of her.

That was the case when Sara* and her big brother Andrew* were walking home from school one day. Andrew was confronted by an older high school boy. Words were exchanged and the older boy, Stephen*, hit Andrew in the face, breaking his nose and sending the boy to the hospital.

Sara witnessed the assault and was as much a victim of the attack as her brother.

The case was referred to the Victim Offender Mediation Program by Stephen's Probation Officer. The officer had met with Stephen and discussed the crime. Stephen was sorry for what he had done and agreed that if it would help Andrew, he would meet with him in a mediation.

After careful screening and meeting individually with both the offender and young Andrew and his parents, staff at the CDRC agreed that the mediation would proceed. An appointment was scheduled for the following week and volunteer mediators were assigned.

The day of the mediation, however, Andrew was having second thoughts. He told his Mother he did not want to mediate. She called to let the CDRC know.

There is never any obligation on the part of a victim, regardless of age, to participate in a mediation with their offender, so Andrew's mediation was cancelled.

However, unlike a court process which would have identified only Andrew as the victim, staff were aware that Sara had been a witness. Staff had talked to her about what happened and from the beginning she had said she wanted to sit in with her brother during the mediation.

Through Sara's mother, staff asked Sara if she still wanted to meet with Stephen even though her brother didn't want to. Sara said, "Yes, I want to know why he hit my brother."

The day of the mediation, Sara and her parents arrived, with Andrew tagging along, and the whole family met with Stephen and his Father. Since Sara was so young, parents of both children participated in the mediation.

Although young Andrew had said he did not wish to talk to Stephen, he sat in on Sara's meeting.

Drew and Sharon, the two volunteer mediators assigned to the case, opened up the mediation and got the conversation flowing

Sara was very upfront in her questioning asking, "Why did you hit my brother?" Stephen apologized for what he'd done, explained why he got angry, and said he shouldn't have punched

(continued on page 3)

The CDRC welcomes
VECO
as the newest member of our
*CDRC Donor *All-Stars**

Thank you for your
generous support!



I'm a CDRC *All-Star*!

(continued from page 2)

Andrew, that there were other ways to deal with his anger.

The discussion between Sara and Stephen went so well that her parents began to ask questions and talk about their pain, anger, and fear about having their child assaulted.

Stephen did his best to take responsibility for his behavior, although it was obvious to the mediators that hearing about the pain and injury he had caused was difficult.

Toward the end of the mediation, Sara said she had no more questions. At that point, Andrew who had been quiet throughout the process, began to address Stephen directly and ask him questions of his own.

With the support of his parents and the mediators, Andrew told Stephen how the attack had hurt him and about his anger at being assaulted for no reason.

In the course of the discussion, Stephen told Andrew and his parents how he had been harassed earlier in the day by a group of kids from the area. When he was driving home with friends, he saw Andrew and his sister and assumed they were some of the same kids from earlier in the day. They weren't, but Stephen hit Andrew before he knew that.

At that point, Stephen paused and turned to Andrew, moving so he could look him in the face. He said, "I'm sorry I hit you Andrew. I didn't mean to cause you such pain and injury. It was a stupid thing that I shouldn't have done. I'm really sorry."

Andrew sat quietly for a moment, then looked at Stephen and said, "That helps, thanks."

This exchange indicated a turn in the mediation. The mediators let the apology sink in for a few moments then moved the discussion to restitution. They asked the family, "Now you've heard from Stephen what happened and why. What would it take to make this right?"

Andrew's parents presented receipts for his medical expenses that were not covered by insurance.

Because the medical costs were so high, Stephen worked out a payment plan with

Andrew's parents that incorporated some of his earned wages and, because they couldn't wait long to pay the medical bills, it also included part of Stephen's permanent fund check.

At the end of the mediation, after the restitution agreement was signed, Andrew's parents and Stephen's Father looked at each other and smiled. Stephen had done the right thing and worked hard to repair the damage he had done. His Father was proud of his son's ability to make amends. Andrew's parents felt respected, and reassured that neither they or their children were at risk of further conflict.

As both families left the center, they commented on how much better they felt for having gone through the mediation.

Andrew's Mother seemed to sum up everyone's feelings when she said, "I feel so much better. Before we did this I said to my husband, "I'd rather have a root canal!" but now that its over, I realize its the best thing we could have done!"

Little Sara walked out the door with the answer to her question, "Why did you hit my brother?" and with peace of mind that the incident was resolved permanently and she no longer had to be afraid of walking home from school. Andrew was happy he had met with Stephen. He felt better and the apology he received did much to alleviate his fear and apprehension of meeting Stephen in the neighborhood again.

The CDRC needs office equipment!
Can you help? All donations tax-deductible

#1 Need
Large capacity COPYING MACHINE

#2 Need
IBM/PC letter-quality PRINTER
FILE CABINETS



Statement of Robert H. Knight, Jr. In Support of Passage of IIB-7
Teleconference: Senate Judiciary Committee
Fairbanks, Alaska -- February 4, 1998

My name is Bob Knight. Thank you for the opportunity to testify on behalf of HB - 7. HB - 7 provides for a Victim Offender Mediation Program -- also called VOMP, and it provides for protection from liability for those participating in Youth Court Programs.

Last year, I was privileged to go to the graduation of the Fairbanks Youth Court Programs student advocates and judges. These young people represent some of the most promising individuals in Alaska. HB - 7 will provide a necessary component of support.

VOMP has been around awhile. Nikishka Stewart has run an superb program in Anchorage for some years now. I took the training course there two years ago and was tremendously impressed with the overall concepts, the commitment, and the details.

My active participation in alternative dispute resolution goes back at least 36 years. I was involved in what we now call ADR before it had a name. Interestingly to me in retrospect, I learned the basic principles in the U.S. Marine Corps.

At Yale, Virginia Law, Georgetown Law, as a member of the Virginia and District of Columbia Bar Associations since the 1970's, as a member of the Alaska Bar's ADR section, as a certified American Arbitration Association member and panelist, the Alaska Dispute Settlement Association, the Society of Professionals in Dispute Resolution, the Academy of Family Mediators, and the Association of Family and Conciliation Courts, as well as a participant in formal course work and seminars. I have served as a Reporter for the ADSA Standards Committee and on its Credentialing Committee. Altogether, I think it is fair to say I know at least a little about ADR.

Experientially, I have worked in all three branches of the Alaska State Government. Most recently, I was privileged to serve on Senator Wilken's staff during his first session here. I served as an aide to the Governor and a Division Director at DCRA. In the federal government, I have served on the President's Management Council, the Department of Justice, the Environmental Protection Agency, the Department of the Interior, and the Department of the Treasury. I have spent some time on Capitol Hill and in the federal court system. I was for a while a Special Assistant U.S. Attorney.

My experience in ADR extends to the non-profit and private sectors in Alaska. I have worked in rural Alaska as well as in the railbelt. Currently, I am completing an Interdisciplinary Doctoral program involving Educational Leadership, law, policy, and public administration. My dissertation involves an analysis of the *Tobeluk v. Ltd Settlement* sometimes known as the *Molly Hootch* case.

HB - 7 brings with it a \$0 fiscal note. Alaskans have been involved formally in ADR and mediation through ADSA for over ten years. I would urge this Committee and the entire Legislature to sign on as co-sponsors of this legislation. Its unanimous passage in the House last year indicates, I would respectfully suggest, its bipartisan or nonpartisan nature and importance.

Why should Alaska Legislators support this bill?

Mediation is an idea whose time has come. Several years ago, the American Bar Association determined that 86% of Americans did not have access to the American judicial system. Money, distance, and intimidation were the three most important reasons

HB - 7; Knight Statement in Support of Passage -- February 4, 1998

for that. History shows that orderly dispute resolution is a critical part of any Civil Society from the beginnings of history.

A Civil Society is marked throughout history by a rule of law. Our U.S. Supreme Court building has the words: Equal Justice Under Law stamped over its entrance. ADR, particularly mediation, can bring closure as well as resolution of disputes. Mediation must be voluntary and it must be confidential. Other than that, it has few special rules.

VOMP lets victims and perpetrators communicate about the events which bring them together. It provides an opportunity for closure for the victims of the perpetrators actions. It provides perpetrators an opportunity to deal with the realities of their acts. It brings humanity back into a process which, as much for the sake of efficiency as anything, used to work hard to exclude the human side of the equation

Some lawyers feel mediation will cut into their practice. It does not. Mediation is not a negotiated settlement in the sense lawyers do negotiated settlements. Some judges feel mediation is about the same as a settlement conference like they hold in chambers.

In my view, it is not. Mediation simply brings disputants together to resolve their differences. It does not make things 'all better' nor is it intended to do that. It is a civil process for resolving disputes so that people and society can get on with their lives.

HB - 7 represents a small, but important step toward providing Alaskans with the mechanisms to resolve disputes effectively, efficiently, and at low cost. VOMP training is thorough and effective. Case supervision is more than adequate and effective. VOMP gives both victims and perpetrators the opportunity to put the past behind them.

Mediation is an idea whose time has come. I respectfully urge the members of this Committee to take an active interest in learning as much about it as they can when the opportunity presents itself. ADSA is sponsoring an ADR conference in April. I hope you and your staffs will find time to attend.

You have important mediation resources in Alaska. Suzanne DiPietro on the Judicial Council Staff, Kathy Anderson, Mike Hostina, Julie Smith, MaryAnn Dearborn all of ADSA, and many others are knowledgeable, experienced, and very much involved.

Mediation has many applications which can save the State money and time. The federal government increasingly employs it at significant savings. Negotiated regulation development represents another area in which mediation can save time and money.

Mediators are not advocates, promoters, or marketers. They are professional neutrals: facilitators for problem solving. Many areas of the nation are starting to realize what an incredibly important resource they can be to a community. The District of Columbia Bar is helping develop a strong ADR presence in the District.

The Member of this Committee can, and I believe should, play an important role in advancing ADR in Alaska. Alaska Natives have employed ADR techniques successfully for an awfully long time. Folks like William Uri use it effectively to help resolve tough international disputes. Many types of disputes are often settled effectively through ADR rather than in the Courts. When Alaska's judges and lawyers fully understand the uses and limits of ADR, I believe they too will become advocates for it. Your leadership will help or hinder that development. I hope each of you becomes personally involved for Alaska.

HB -7 provides a small window of opportunity for more Alaskans to get involved with and to utilize ADR mediation in a controlled environment. I respectfully urge you

HB - 7: Knight Statement in Support of Passage -- February 4, 1998

to report the bill favorably and to support its passage in the Senate. At some future date, as your public service careers draw to a close, it will be something to look back at with pride.

Thank you for the opportunity to speak in support of HB - 7's enactment.

HB

9

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 7
 Bill Version: CSHB 9(FIN)
 (H) Publish Date: 2/19/97

Revision Date: _____
 Title: "An Act relating to the right of crime victims..."
 Sponsor: Representative Porter
 Requestor: (H) FIN

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

Estimate of any current year (FY 97) cost: \$ **

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill revises a number of criminal statutes from the "victim's rights" perspective. It creates new crimes and makes it easier to obtain convictions by altering the rules of admissibility of evidence. These changes will result in additional cases and additional work for the Public Defender. Without accurate predictors as to numbers, fiscal impact is impossible to quantify.

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

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Bovee
 Agency: Department of Administration

Date: 2/17/97

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FISCAL NOTE

No. 6
 Bill Version: CSHB 9(FIN)
 (H) Publish Date: 2/19/97

STATE OF ALASKA
 .997 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to the right of crime victims and victims of juvenile offenses to be present at court..."
 Sponsor: Representative Porter
 Requestor: (H) FIN

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

CAPITAL EXPENDITURES						
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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 97) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
 This bill will have no impact on Office of Public Advocacy.

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

Phone: 274-1684
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Administration

Date: 2/4/97

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FISCAL NOTE

No. 5
 Version: CSHB 9(FIN)
 (H) Publish Date: 2/19/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: ... to the rights of crime victims ... collection by BRU: Criminal Division/Civil Division
victims of restitution ... safety of victims ... amending court rules Component: Criminal Division/General Legal Services
 Sponsor: Representative Porter
 Requester: House Finance Committee COMPONENT SERIAL NO. 2085/2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill clarifies the "rights of crime victims" amendment contained in art. 1, sec. 24, of the Alaska Constitution. The bill amends AS 12.61 by providing that the victim has a right to be present at every proceeding in a criminal prosecution or delinquency adjudication in which the defendant or a minor has the right to be present. Further, the bill amends provisions in the substantive and procedural criminal law to facilitate, particularly from the victim's perspective, the prosecution of a person charged with a crime or the adjudication of a minor for delinquent acts. The bill also adopts provisions intended to better protect the safety and welfare of victims, other persons, and the community. It requires a court to consider the safety of the victim in setting bail and conditions of release. It makes it a class A misdemeanor to interfere with the report to law enforcement of a domestic violence crime. Finally the bill facilitates the collection of restitution by providing that the weekly income and liquid assets exemptions from execution do not apply to collection of court-ordered restitution from a prisoner from funds held outside a correctional facility.

CSHB 9 (FIN) workdraft H will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson* Pt no: 465-5370
 Division: Administrative Services Division Date: 2/14/97
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce M. Botelho* Date: 2/14/97
 Agency: Department of Law

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FISCAL NOTE

No. 4
 Bill Version: CSHB 9 (JUD)
 (H) Publish Date: 1/27/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO:

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act relating to the rights of crime
victimsto be present at court proceedings" BRU: Statewide Support
 Sponsor: Representative Porter Component: Commissioner's Office
 Requestor: House Judiciary Committee COMPONENT SERIAL NO. 0523

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

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

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 97) impact: \$ -0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill does not impact the Department of Public Safety

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner Phone: 465-4322
 Division: Commissioner's Office Date: 1/14/97
 Approved by Commissioner: *Ronald L. Otte* Date: 1/14/97
 Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

No. 2
 Bill Version: CSHB 9 (JUD)
 (H) Publish Date: 1/27/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Rights of Victim's to be present at court
proceedings BRU: Family and Youth Services
 Sponsor: Representative Porter Component: DFYS Central Office
 Requestor: House (JUD) COMPONENT SERIAL NO. 259
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

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

POSITIONS:

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

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

ANALYSIS: (Attach a separate page if necessary)

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

5/23/97

Prepared by: L. Diane Worley, Director Phone: 465-3191
 Division: Family & Youth Services Date: 01/23/97
 Approved by Commissioner: Karen Perdue, Commissioner Date: 1/23/97
 Agency: Department of Health & Social Services

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FISCAL NOTE

No. 1
 Bill Version: CSHB 9 (JUD)
 (H) Publish Date: 1/27/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Victim's right to be present at trial BRU: Trial Courts
 Component: _____
 Sponsor: Rep. Porter
 Requestor: House Judiciary COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
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	0.0	0.0	0.0	0.0	0.0	0.0
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 97) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228
 Agency: Alaska Court System Date: 01/23/97

Approved by: Arthur H. Snowden, II, Administrative Director *ASD* Date: 01/23/97
 Agency: Alaska Court System

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02:11 PM
 Rev 1/97

E COPY

cc:Mail for: Laura Chase

Subject: Re: CSSHB 9

From: Sam Shepard at Gov_Admin_Svcs 4/16/97 9:58 AM

To: Laura Chase at LAA_STAY

Laura, I think that is all of them. Thanks.sam

Forward Header

Subject: Re: CSSHB 9

Author: David Koivuniemi at DOA-DAS

Date: 4/16/97 9:54 AM

No impact to DOA

Reply Separator

Subject: CSSHB 9

Author: Sam Shepard at Gov_Admin_Svcs

Date: 4/15/97 7:09 AM

CSHB 9 passed out of s jud with cs on 4/11. Need fiscal notes from following departments, tell us if no impact.

DOA

Law

DHESS

DPS

cc:Mail for: Laura Chase

Subject: RE: CSSHB 9
From: Sam Shepard at Gov_Admin_Svcs 4/15/97 12:50 PM
To: Laura Chase at LAA_STAY

FYI

Forward Header

Subject: RE: CSSHB 9
Author: ELindstr@HEALTH.ALASKA (Lindstrom, Elmer A.) at CC2MHS1
Date: 4/15/97 12:41 PM

Previous zero FN applies.

From: 'Sam Shepard@Gov.Alaska'
To: Lindstrom, Elmer A.; 'david.koivuniemi@admin.alaska';
'psprovos@psafety.alaska'; 'Joan_Kasson@law.state.ak.us'
Cc: 'Shari Kochman@cchub.Alaska'
Subject: CSSHB 9
Date: Tuesday, April 15, 1997 9:32AM

CASHB 9 passed out of s jud with cs on 4/11. Need fiscal notes from following departments, tell us if no impact.

DOA
Law
DHESS
DPS

1997 LEGISLATIVE SESSION

Revision Date: 2/15/97

Dept. Affected: Public Safety

Title: Victim's Rights to be Present at Trial

DPS Statewide Support

Component: Commissioner's Office

Sponsor: Representative Porter

Requestor: S.JUD

COMPONENT SERIAL NO. 0523

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

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

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

FUNDING: (Thousands of Dollars)

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

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

POSITIONS:

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

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

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner

Phone: 465-4322

Division: Commissioner's Office

Date: 4/15/97

Approved by Commissioner: *Ronald L. Otte*
Agency: Ronald L. Otte, Dept. of Public Safety

Date: 4/15/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SCS CSHB 9 (JUD)

Revision Date: _____	Dept. Affected: <u>Department of Law</u>
Title: <u>... to the rights of crime victims . collection by</u>	BRU: <u>Criminal Division/Civil Division</u>
<u>victims of restitution . . safety of victims . .amending court rules</u>	Component: <u>Criminal Division/General Legal Services</u>
Sponsor: <u>Representative Porter</u>	
Requester: <u>Senate Judiciary Committee</u>	COMPONENT SERIAL NO. <u>2085/2087</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill clarifies the "rights of crime victims" amendment contained in art. I, sec. 24, of the Alaska Constitution. The bill amends AS 12.61 by providing that the victim has a right to be present at every proceeding in a criminal prosecution or delinquency adjudication in which the defendant or a minor has the right to be present. Further, the bill amends provisions in the substantive and procedural criminal law to facilitate, particularly from the victim's perspective, the prosecution of a person charged with a crime or the adjudication of a minor for delinquent acts. The bill also adopts provisions intended to better protect the safety and welfare of victims, other persons, and the community. It requires a court to consider the safety of the victim in setting bail and conditions of release. It makes it a class A misdemeanor to interfere with the report to law enforcement of a domestic violence crime. The bill facilitates the collection of restitution by providing that the weekly income and liquid assets exemptions from execution do not apply to collection of court-ordered restitution from a prisoner from funds held outside a correctional facility. Finally, the Senate Judiciary Committee Substitute for HB 9 provides that if the state is appealing an order dismissing an indictment or

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

Phone: 465-5370
 Date: 4/15/97
 Date: 4/15/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SCS CSHB 9 (JUD)

ANALYSIS CONTINUATION:

complaint, or granting a new trial, the defendant will be treated the same as if under pretrial release, and be subject to custody or bail.

SCS CSHB 9(JUD) will have no fiscal impact on the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SCS CSHB 9 (JUD)

Revision Date: 04/10/97

Dept. Affected: Alaska Court System

Title: Victim's right to be present at trial

BRU: Trial Courts

Component: _____

Sponsor: Rep. Porter

Requestor: Senate Judiciary

COMPONENT SERIAL NO. 768

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (
----------------------	--	--	--	--	--	--

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal imp. act.

Prepared by: Doug Woolver, Administrative Attorney

Agency: Alaska Court System

Phone: 264-8265

Date: 04/10/97

Approved by: Stephanie J. Cole, Acting Administrative Director

Agency: Alaska Court System

Date: 04/10/97

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SENATE COMMITTEE REPORT

DATE: 3/10/97

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/15/97

Judiciary Committee considered CS FOR HOUSE BILL NO. 9(FIN) am
VICTIM'S RIGHT TO BE PRESENT AT TRIAL

and recommends:

- be replaced with SS CS HB 9 (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 change
 - new: SCR# 12

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
CHAIR: <i>[Signature]</i>		CHAIR: <i>[Signature]</i>			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
FISCAL NOTES			
FORTHCOMING			

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
COURTS	1/23/97	⊖	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

A M E N D M E N T

TO: CSHB 9(FIN) am

BY:

Page 4, following line 29:

Insert a new bill section to read:

**** Sec. 12.** AS 12.30 is amended by adding a new section to read:

Sec. 12.30.035. Release pending appeal by state. If the state appeals an order dismissing an indictment, information, or complaint, or granting a new trial after verdict or judgment, the court shall treat the defendant in accordance with the provisions governing pretrial release under this chapter.”

Renumber the following bill sections accordingly.

Page 9, following line 9:

Insert a new bill section to read:

**** Sec. 24.** Rule 43(d), Alaska Rules of Criminal Procedure, is amended to read:

(d) Discharge from Custody - Exoneration of bail. Except as provided in AS 12.30.035, when [WHEN] dismissal is ordered pursuant to this rule the defendant shall be discharged from custody, or if admitted to bail, the bail exonerated, or money deposited in lieu thereof refunded to the depositors.”

Renumber the following sections accordingly.

Page 9, line 10:

Following "(c)":

Insert "and (d)"

Page 9, following line 17:

Insert the following:

"(d) Sections 12 and 24 this Act apply to all criminal prosecutions and appeals pending on or arising after the effective date of secs. 12 and 24 this Act, regardless of whether the prosecution was initiated or the appeal was filed before the effective date secs. 12 and 24 of this Act.

* Sec. 26. Sections 12 and 24 of this Act take effect immediately in accordance with AS 10.01.070(c)."

Renumber the following bill section accordingly.

Page 9, following line 18:

Delete all material and insert the following:

"* Sec. 27. Except as provided in sec. 26 of this Act, this Act takes effect July 1, 1997."

DEPARTMENT OF LAW

CRIMINAL DIVISION

April 9, 1997

The Honorable Brian Porter
Alaska House of Representatives
State Capitol, Room 216
Juneau, Alaska 99801-1182

Re: CSHB 9 (FIN)am.

Dear Representative Porter:

Thank you for agreeing to propose the attached amendment to CSHB 9 (FIN)am. We have suggested this amendment because on March 17, 1997, the Alaska Supreme Court issued a decision that could have serious consequences for public safety. The court's holding is this: when a trial court grants a defendant's motion to dismiss the indictment, and the state appeals the dismissal, the defendant is entitled to unconditional release pending resolution of the appeal, regardless of whether the dismissal order was mistaken, regardless of whether the defendant poses an extreme danger to the public, and regardless of whether the defendant will flee the state.

It is unreasonable and potentially dangerous to deny the trial courts the authority to stay an order of dismissal pending appeal. The trial courts are not infallible, and will occasionally err in granting a defendant's motion to dismiss an indictment. If the supreme court's holding is given effect, an erroneous dismissal of an indictment will lead inevitably to the unconditional release of the offender. The state's right to appeal the dismissal will be reduced to a nullity, since the defendant can flee the jurisdiction while the appeal is pending.

In the long run, the supreme court's rule will not always advance the interests of criminal defendants. A judge who is faced with the prospect of releasing unconditionally a dangerous defendant may well be influenced by this prospect in the resolution of the defendant's motion to dismiss. That is, when confronted by a difficult legal question, the trial judge may well resolve doubts in favor of the state.

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3428
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OFFICE OF SPECIAL PROSECUTIONS AND APPEALS
310 K STREET, SUITE 308
ANCHORAGE, ALASKA 99501-2064
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The Honorable Brian Porter
Alaska House of Representatives

April 9, 1997
Page 2

In the federal courts, this situation is specifically addressed by statute, 18 U.S.C. § 3143(c). This statute provides that, in a case where the government has appealed, the release of the defendant shall be governed by the same provisions that govern release before trial. This amendment is modeled after 18 U.S.C. § 3143(c).

Thank you for your help.

Sincerely

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Anne D. Carpeneti
Assistant Attorney General

ADC:tg

Enclosure

cc:

(3) No response shall be made to a motion for reconsideration unless requested by the court, but a motion for reconsideration will ordinarily not be granted in the absence of such a request.

(4) If the motion for reconsideration has not been ruled upon by the court within 30 days from the date of the filing of the motion, or within 30 days of the date of filing of a response requested by the court, whichever is later, the motion shall be taken as denied.

(5) The court, on its own motion, may reconsider a ruling at any time not later than 10 days from the date of notice of the final judgment in the case.

(l) **Citation of Supplemental Authorities.** When pertinent authorities come to the attention of a party after the party's memorandum has been filed, or after oral argument but before decision, the party may promptly advise the court, by letter, with a copy to adversary counsel, setting forth the citations. There must be a reference either to the page of the memorandum or to a point argued orally to which the citations pertain, but the letter may not contain argument or explanations. Any response must be made promptly and must be similarly limited.

(m) **No Effect on Substantive Law.** Nothing in this rule should be construed as allocating the burden of pleading or production to any party.

(n) **Variations on Time Periods.** The court may vary any of the time periods established in this rule for good cause shown.

(Adopted by SCO 4, October 4, 1959; repealed and reenacted by SCO 1126 effective July 15, 1993)

Rule 43. Dismissal.

(a) **By Prosecuting Attorney.** The prosecuting attorney may file a dismissal of an indictment, information or complaint and the prosecution shall thereupon terminate. Such a dismissal shall not be filed during the trial without the consent of the defendant.

(b) **By Court.** If there is unnecessary delay in presenting the charge to a grand jury or in filing an information against a defendant who has been held to answer to the superior court, or if there is unnecessary delay in bringing a defendant to trial pursuant to Criminal Rule 45, the court shall dismiss the indictment, information or complaint.

(c) **In Furtherance of Justice.** The court may, either on its own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action, after indictment or waiver of indictment, to be dismissed. The reasons for the dismissal shall be set forth in the order.

(d) **Discharge from Custody — Exoneration of Bail.** When dismissal is ordered pursuant to this rule

the defendant shall be discharged from custody, or if admitted to bail, the bail exonerated, or money deposited in lieu thereof refunded to the depositors.

(Adopted by SCO 4 October 4, 1959; amended by SCO 49 effective January 1, 1963; amended by SCO 157 effective February 15, 1973; and by SCO 1153 effective July 15, 1994)

Cross References

(a) **CROSS REFERENCES:** AS 12.20.020; AS 12.20.050

Annotations

Cases

Right to speedy-trial was waived by failure to assert it. *Goss v. State*, Op. No. 193, 390 P2d 220 (Alaska 1964).

This rule does not authorize court to accept plea of guilty to lesser included offense without concurrence of district attorney. *State v. Carlson*, Op. No. 1327, 555 P2d 269 (Alaska 1976).

Trial judge did not abuse his discretion in reinstating by court order a dismissed rape charge without reindictment. *Morgan v. State*, Op. No. 320, 673 P2d 897 (Alaska App. 1983).

Trial judge did not abuse his discretion in ordering the State to give use immunity to a witness or, in the interest of justice, face dismissal of sexual abuse charges against defendant. *State v. Echols*, Op. No. 1045, 793 P2d 1066 (Alaska App. 1990).

Rule 43.1 Clerk's Authority.

Unless otherwise ordered by the court, the clerk is authorized to quash or recall warrants, summonses, and orders to show cause where it is uncontroverted or clearly proven that:

(a) The defendant has paid the fine or restitution for which the warrant, summons, or order to show cause was issued;

(b) The defendant has posted the bail listed on the warrant; or

(c) The charging document for which the warrant, summons, or order to show cause was issued has been dismissed or withdrawn.

(Adopted by SCO 1079 effective January 15, 1992)

Rule 44. Service and Filing of Papers.

(a) **Service — When Required.** Written motions other than those which are heard *ex parte*, written notices, and similar papers shall be served upon the adverse parties.

(b) **Service — How Made.** Whenever under these rules or by an order of the court service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party is