

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9586 SENATE JUDICIARY

I am testifying today in support of House Bill 9. As a legal advocate at the Tundra Women's Coalition here in Bethel I have accompanied many victims of domestic violence and sexual assault to court. Victims often feel nervous and scared when they go to court. They fear seeing the defendant again, perhaps for the first time since the incident. However, they also fear how they, as a victim, will be attacked in court. Traditional defenses for crimes of domestic violence and sexual assault often place the victim on trial instead of the defendant. We sometimes forget that when a victim finds the courage to testify in a courtroom she is fighting not only to punish the defendant but she is also fighting to clear herself of the gossip, ridicule, and shame that our society places on her and is reinforced in the courtroom. By barring her from hearing testimony of other witnesses we often give defense attorneys full license to slander and blame victims. As long as victims are prohibited from hearing the entire trial, unlike the defendant a victim is often unable to "face her accuser."

We need to acknowledge that victims of violent crime are often victims of the criminal justice system as well. We should encourage victims to become active participants in the criminal justice process rather than treat them as simply another piece of evidence. By allowing victims to be present during the entire trial we take one step towards showing victims of violent crime the respect they deserve.

Connie Trumble

LEGAL SERVICES

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

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

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

MEMORANDUM

April 1, 1997

SUBJECT: Sequestration of Victim-Witnesses (Work Order No. 20-LS0088\K)

TO: Senator Robin Taylor
Attn: Joe Ambrose

FROM: Gerald P. Luckhaupt *JPL*
Legislative Counsel

You have asked if Rule 615, Alaska Rules of Evidence, is in conflict with Art. I, § 24, Constitution of Alaska? You have also asked if there are any constitutional problems with CSHB 9(FIN) providing that a court may never sequester a victim-witness?

Art. I, § 24, Constitution of Alaska, provides that a crime victim shall have "the right to obtain information about and be present at all criminal or juvenile proceedings where the accused has a right to be present. . . ." Rule 615, A.R.E., provides "[a]t the request of a party the court may order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order on its own motion."

To the best of the limited research I have performed the sequestration of witnesses, as permitted in Rule 615, is not a constitutional right of the defendant. It is my opinion that to the extent that a court routinely sequesters victim-witnesses from the courtroom pursuant to Rule 615, then the court is violating the spirit and intent of Art. I, § 24.¹

It is also my opinion that CSHB 9(FIN), by providing that a court can never sequester a victim-witness from the courtroom before the victim-witness testifies, could run afoul of other constitutional provisions in a particular case. A defendant's right to procedural due process could be implicated if the defendant were able to make a sufficient factual showing that allowing a particular victim-witness to be present in the courtroom during the testimony of other witnesses denies the defendant an opportunity for a fair trial. This burden would

¹There is a question as to whether Art. I, § 24 is self-executing. The opening language of the amendment provides: "Crime victims, as defined by law, shall have the following rights as provided by law. . . ." Absent legislative action defining the reach of Art. I, § 24, it can be argued that there is no present conflict between Rule 615, A.R.E., and Art. I, § 24.

Senator Robin Taylor

April 1, 1997

Page 2

probably be quite rigorous; for example, the burden may be on the defendant to show that a victim-witness has actually made statements that he or she will color his or her testimony based upon what other witnesses are going to testify to. If a defendant were to meet this burden so that the defendant's right to a fair trial is implicated by allowing a victim-witness to remain in the courtroom, I believe that the dictates of Art. I, § 24, as implemented by CSHB 9(FIN) would have to fall in the face of a sequestration request that was of constitutional magnitude to guarantee a defendant a fair trial, considering the loss of liberty the defendant is facing.

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97-221.glc

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 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

SPONSOR STATEMENT

For

HB 9 RIGHT OF CRIME VICTIMS AND VICTIMS OF JUVENILE OFFENSES TO BE PRESENT AT COURT PROCEEDINGS

The Constitution of the State of Alaska was amended in 1994 by adding to Article 1, a new Section 24, which specifically extended to crime victims "the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present..."

Currently at least two Superior Court judges are interpreting the Alaska Statutes, and Rule 615, Alaska Rules of Evidence, to exclude victims of crimes and juvenile offenses from being present in the courtroom during a trial of the accused until after the victim has testified.

This bill is then offered to implement the mandate of the 1994 Amendment to the Constitution and to make absolutely clear to the judiciary a crime victim's right to be present at the trial and other proceedings of the accused, including juvenile proceedings, whenever the accused has the right to be present.

Alaska State Legislature



Official Business

House Majority Leader

State Capitol
Juneau, AK 99801-1182
(907) 465-3718

SECTIONAL ANALYSIS

OF

CS FOR HOUSE BILL NO. 9(FIN)

Sections 1, 2, 14, 15, 17, 20 and 21 of this Act clarify the right of crime victims to be present at all criminal or juvenile proceedings where the accused or juvenile has the right to be present.

Sections 3, 4, 5, and 6 create an exception to the weekly earnings and liquid assets exemptions from execution to allow a victim, in attempting to collect on an order of restitution, to levy upon assets held by a prisoner outside an institution. Under present law, assets held inside the institution are already available to victims under AS 09.38.030(f).

Section 7 amends the definition of "incapacitated" in the sexual assault statutes. Sexual Assault in the Third Degree prohibits, for example, sexual contact with a person who the offender knows is incapacitated. The definition is amended so that the state, in proving its case, must prove either that the victim was temporarily unable to appraise the nature of his or her conduct, and that the victim was temporarily unable to express unwillingness to act. At present the statutes require the state to prove both in order to establish its case.

Section 8 adds a new provision to the criminal code making it a class A misdemeanor to interfere with a person who is reporting or attempting to report a domestic violence crime to the police.

Sections 9, 10, 11, and 12 amend the bail statutes to require that the safety of the victim be considered by the court when it makes decisions concerning bail and conditions of release for the defendant pending trial, sentence and appeal.

Section 13 limits the cases where the court can order a victim to undergo a psychiatric or psychological examination to cases where (1) the victim's psychiatric condition is an element of the offense (for example, in sexual assault in the first degree under AS 11.41.410(a)(3), the defendant is charged

with sexual penetration with a person who the defendant knows is mentally incapable and who is under the defendant's care); or (2) the state gives notice that it will rely on evidence that the victim is suffering from a continuing psychological condition (such as rape trauma syndrome).

Section 14 allows a crime victim to testify before a three judge sentencing panel.

Section 16 provides that applications for compensation and personally identifying information are confidential records in proceedings before the Violent Crimes Compensation Board.

Section 18 allows victims who are subpoenaed to testify before a grand jury, who live more than 50 miles from the site of the grand jury, or who must customarily fly to the site of the grand jury, to testify telephonically. Other witnesses are allowed under present law to testify by telephone under these circumstances.

Section 19 amends Alaska Evidence Rule 404(b) to allow, in a prosecution of a crime involving domestic violence or interfering with a report of domestic violence, evidence to be introduced that the defendant has committed other crimes involving domestic violence or interfering with the report of a crime involving domestic violence against the same or another victim.

Section 21 repeals Alaska Delinquency Rule 3(c) because the definition of "victim" is no longer required under the circumstances summarized in Section 18.

Section 22 repeals Rule 6(U)(4), Alaska Rules of Criminal Procedure.

Sections 23 - 24 include applicability and effective date provisions.

Date: January 15, 1997

To: Representative Joe Green
Chairman, House Judiciary Committee

From: Representative Brian Porter
House Majority Leader

Subject: Additional Sectional Analysis of HB 9

In general, at common law it was within the discretion of a trial judge to exclude witnesses from the courtroom during a trial on the theory that a witness who sits through a court proceeding could shape his or her testimony to match the testimony given by other witnesses. Even at common law, however, the exclusion of witnesses applied only to ordinary witnesses, and not to witnesses who were also parties to the litigation. The exemptions from exclusion enjoyed by party witnesses extended to prosecution witnesses in criminal proceedings. So under common law, a judge exercising sound discretion generally refused to exclude crime victims from the trial of an accused.

The reason underlying the common law exception which allowed crime victims to be present throughout a trial is that a crime victim's presence at the prosecutor's table was necessary in most instances because the crime victim was the only person with personal knowledge of what occurred during the criminal activity. Information which the crime victim could furnish to the prosecutor during the course of the trial could not be obtained from anyone else other than the crime victim. Excluding the crime victim would, in almost all cases, place the state at an enormous disadvantage. See *Miller v. State*, 648 N.E. 2d 1208, 1210 (Ind. 1995).

This rationale was implicitly accepted by the Alaska Supreme Court in a decision which predated Alaska's adoption of the Federal Rules of Evidence in 1979. In *Dickens v. State*, 398 P.2d 1008 (Ak. 1965), the court upheld the right of a police officer who was in charge of a criminal investigation to remain in the courtroom, despite the fact that he was to testify during the trial.

With the adoption of the Federal Rules of Evidence by Congress in 1973, the issue of which witnesses should or should not be excluded was finally settled in the federal courts. Federal Evidence Rule 615 mandated that a party witness could not be excluded if the party was a "natural person". By definition, all crime victims are "natural persons". The Federal Evidence Rules applied to both civil and criminal cases. Moreover, under the Federal

Evidence Rule 615, there no longer was discretion to exclude a party witness. It was now mandatory for a judge to refuse to exclude a crime victim from the trial of the accused.

Effective August 1, 1979, Alaska adopted, with few modifications, the Federal Rules of Evidence. Alaska Evidence Rule 615, as adopted, was virtually identical to the Federal Evidence Rule 615. The provisions regarding nonexclusion of party witnesses was identical in both the Federal and Alaska versions of Rule 615.

The Alaska Evidence Rules Commentary to Rule 615 reiterate the consistency of interpretations between Federal and Alaska Evidence Rules 615. In Alaska, natural persons who are parties clearly have the right to be present at criminal trials.

Even though Alaska Evidence Rule 615 on its face expressly makes mandatory the nonexclusion of a party witness, at least two Alaska Superior Court judges have insisted on exercising discretionary powers to exclude crime victims. This is so despite the absence of discretion under the applicable portion of Rule 615. Apparently state and municipal authorities have neither the inclination nor the means to take the issue to the Alaska Supreme Court.

A similar problem may have arisen in New Hampshire, since that state's Evidence Rule 615 now specifically includes "a victim of the crime" provision to the category of party witnesses who are exempt from exclusion. See New Hampshire Evidence Rule 615, attached hereto as exhibit A. This could serve as a model for the very minor changes which will need to be made to Alaska Rule 615. See also *State v. Hamil*, 547 A.2d 223, 224 (N.H. 1988) in which the Supreme Court of New Hampshire affirmed that the trial court was correct in refusing to exclude the crime victim from the court room on the basis of its Evidence Rule 615, which explicitly exempted "a victim of crime" from being excluded during the trial.

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Became Law 3/11/97

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Victim Rights Clarification Act of 1997 (Enrolled Bill (Sent to President))

--H.R.924--

H.R.924

One Hundred Fifth Congress
of the
United States of America
AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday,

the seventh day of January, one thousand nine hundred and ninety-seven

An Act

To amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Victim Rights Clarification Act of 1997'.

SEC. 2. RIGHTS OF VICTIMS TO ATTEND AND OBSERVE TRIAL.

(a) IN GENERAL- Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

Sec. 3510. Rights of victims to attend and observe trial.

(a) NON-CAPITAL CASES- Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, make a statement or present any information in relation to the sentence.

(b) CAPITAL CASES- Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, testify as to the effect of the offense on the victim and the victim's family or as to any other factor for which notice is required under section 3593(a).

(c) DEFINITION- As used in this section, the term 'victim' includes all persons defined as victims in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990.'

(b) CLERICAL AMENDMENT- The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following new item:

'3510. Rights of victims to attend and observe trial.'

(c) CLARIFICATION OF GROUNDS FOR EXCLUSION- Section 3593(c) of title 18, United States Code, is amended by inserting 'For the purposes of the preceding sentence, the fact that a victim, as defined in section 3510, attended or observed the trial shall not be construed to pose a danger of creating unfair prejudice, confusing the issues, or misleading the jury.' after 'misleading the jury.'

(d) EFFECT ON PENDING CASES- The amendments made by this section shall apply in cases pending on the date of the enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

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--H.R.924--

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of the

United States of America

AT THE FIRST SESSION

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Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

> 5

Text of 924

5 of 5 items

CO's WASHINGTON ALERT 03/21/97

HR924 McCollum (R-FL) 03/19/97 (50 lines)
Enrolled (Finally passed both houses)

Victim Allocation Clarification Act of 1997.

No special typefaces used in this bill version.
Item Key: 2210

H.924

One Hundred Fifth Congress

-More- (Q = Quit, G = Go, Space Bar = Next Line, Return = Next Screen)

of the

United States of America

AT THE FIRST SESSION

Began and held at the City of Washington on Tuesday,
the seventh day of January, one thousand nine hundred and

ninety-seven

AN ACT

PL 105-6
HAS BEEN
SIGNED INTO
LAW ACCORDING
TO SEN. MURKOWSKI'S
OFFICE.



To amend title 18, United States Code, to give further assurance to
the right of victims of crime to attend and observe the trials of
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5

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Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

There are no more items to read.

Enter one or more numbers or ALL to display item(s).
Enter another display command and one or more numbers or ALL.
Enter MARK or SAVE and one or more numbers to limit or save your set.
Enter SMARTMATCH and a number to find comparable items.
Or enter BACK, HELP, or STOP

physical examination of the victim which are... for evidentiary purposes. The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.

(8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) No cause of action or defense. This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) Definitions. For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

- (i) a spouse;
- (ii) a legal guardian;
- (iii) a parent;
- (iv) a child;
- (v) a sibling;
- (vi) another family member; or
- (vii) another person designated by the court.

(Nov. 29, 1990, P. L. 101-647, Title V, § 503, 104 Stat. 4820; Sept. 13, 1994, P. L. 103-322, Title IV, Subtitle E, § 40503(a), 108 Stat. 1946.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"Section 1102(b)(4)", referred to in this section, is probably a reference to § 502(b)(4) of Act Nov. 29, 1990, P. L. 101-647, which appears as 42 USC § 10606(b)(4).

Explanatory notes:

This section was enacted as part of Act Nov. 29, 1990, P. L. 101-647, Title V, 104 Stat. 4821, and not as part of Act Oct. 12, 1984, P. L. 98-473, which generally comprises this chapter.

Amendments:

1994, Act Sept. 13, 1994, in subsec. (c), added the sentence beginning "The Attorney General shall provide . . ."

RESEARCH GUIDE

Annotations:

Measure and elements of restitution to which victim is entitled under state criminal statute. 15 ALR5th 391.

CHAPTER 113. STATE JUSTICE INSTITUTE

§ 10701. Definitions

As used in this title, the term—

(1)–(5) [Unchanged]

(6) "State" means any State of the United States; the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States;

(7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this title, a constitutionally or legislatively established judicial council acts in place of that court; and

(8) "domestic violence" means—

(A) any action that constitutes—

(i) attempting to cause or intentionally, knowingly, or recklessly causing bodily injury or physical illness;

(ii) rape, sexual assault, or causing involuntary deviate sexual intercourse;

(iii) placing by physical menace another in fear of imminent serious bodily injury; or

(iv) the infliction of false imprisonment;

if such action is taken by one of 2 spouses, former spouses, or sexual or intimate partners against the other spouse, former spouse, or partner and the 2 of whom share biological parenthood of, have adopted, are legal custodians of, or are stepparents of a minor child; or

(B) physically or sexually abusing such minor child if such abuse is inflicted by either of such spouses, former spouses, or partners.

Amendments:
1992, Act Oct. 27, 1992
for the concluding period

§ 10702. Establishment of (a)–(e) [Unchanged]

(f) Rules, regulations, etc. opportunity for comment, conditions under this title, and instructions. The publication date of such rule, except with the rule.

(As amended Nov. 18, 1988 P. L. 100-702, Title VI, § 6

Amendments:
1988, Act Nov. 18, 1988, in s. 1992, Act Oct. 27, 1992, less than 30 days before good cause found and

Other provisions:
Battered Women's Testimony Act
"Section 1. Short title
"This Act may be cited as
"Sec. 2. Authority of the State Justice Institute
"(1) collect national information
"(A) the administrative sources
"(B) sources particularly in
"(2) develop training
"(A) battered women attorneys to using indigent
"(B) individuals to providing assistance
"(3) disseminate assistance to battered women
"Sec. 3. Administration
"For purposes of this section
"(1) subsections 10705(d) and (e)
"(2) subsections in the same manner
"Sec. 4. Authorization
"There is authorized

§ 10703. Board of Directors

(a) Appointment and term

(3) The President shall submit to the President a list of at least 10 members. The Conference shall appoint a new member to a new term. The Conference of Chief Justices shall appoint a new member to submit to him and the President, the Conference of Chief Justices interested organizations of this title.

(4)–(6) [Unchanged]

(b)–(k) [Unchanged]

(As amended Oct. 29, 1992)

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Citation Rank(R) Page(P) Database Mode
NH R REV Rule 615 R 1 OF 1 P 1 OF 3 NH-RULES TERM
New Hampshire Rules of EVIDENCE, RULE 615

WEST'S NEW HAMPSHIRE RULES OF COURT
NEW HAMPSHIRE RULES OF EVIDENCE
ARTICLE VI. WITNESSES

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Current with amendments received through 12-15-95

RULE 615. EXCLUSION OF WITNESSES

At the request of a party the court shall in criminal cases and may in civil cases order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person or a victim of the crime or (2) an officer or employee of a party in a civil case which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of the party's cause.

Federal Rule: Exclusion of Witnesses.

At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of his cause.

Current New Hampshire Law: New Hampshire law is silent on the subject matter of this Rule.

Reporter's Notes

Sequestration of witnesses in criminal trials has long been New Hampshire practice. *State v. Peters*, 90 N.H. 438, 10 A.2d 242 (1939). There does not appear to be any express rule with respect to exclusion of witnesses in civil proceedings. Nor does there appear to be any express clarification of which persons are allowed to remain in attendance, such as exists in the Federal Rule. This Rule appears to be consistent with the considerable discretion allowed trial judges.

Under this Rule requests for sequestration of witnesses in criminal cases must be honored, while such requests in civil proceedings should be within

the discretion of the trial judge.

The Rule is not intended to exclude the police prosecutor in a criminal case.

duction cost evidence or, concomitantly, in instructing the jury that it might consider such evidence.

would not color his testimony by listening to other witnesses.

Affirmed.

[5] The housing authority also contends that the trial judge improperly suggested to the jury that the property's physical condition made it unique. We find no merit in MHA's contention, first, because it presupposes a uniqueness requirement that we decline to adopt, for the reasons provided above. In addition, however, our consideration of the instruction reveals the trial judge's purpose, in referring to fire damage and deterioration, to explain the unavailability of comparable sales rather than to describe any uniqueness of the property.

Because we now affirm the result reached below, we need not address the issues raised in the cross-appeal.

AFFIRMED.

THAYER, J., did not sit; the others concurred.



The STATE of New Hampshire

v.

Gilbert HAMEL.

No. 87-246.

Supreme Court of New Hampshire.

July 8, 1988.

Defendant was convicted in the Superior Court, Hillsborough County, O'Neil, J., as accomplice to robbery. Defendant appealed. The Supreme Court, Batchelder, J., held that: (1) trial court was not authorized to sequester victim as witness, and (2) trial court did not abuse discretion by failing to order State to present allegedly inebriated victim as first witness so that he

1. Criminal Law \S 665(1)

Trial court must order sequestration of witnesses in criminal cases upon request. Rules of Evid., Rule 615.

2. Criminal Law \S 665(2)

Trial court was not authorized to sequester victim as witness. Rules of Evid., Rule 615.

3. Criminal Law \S 680(1)

Trial court's decision to direct order of witnesses lies within its sound discretion.

4. Criminal Law \S 680(1)

Trial court did not abuse discretion by failing to order State to present victim, who was allegedly inebriated during crime, as first witness so that he would not color his testimony by listening to other witnesses; defendant made only conclusory allegations that police officer's testimony gave victim unfair opportunity to color his testimony.

5. Criminal Law \S 1168(2)

Trial court's failure to require State to present victim, who was allegedly inebriated during crime, as first witness so that he would not color his testimony by hearing other witnesses did not require reversal in prosecution for being accomplice to robbery; record did not indicate that victim colored testimony to conform to that of police officer; and defendant unsuccessfully tried to impeach victim's ability to perceive and relate facts and presented defense witness who gave different account of victim's activities on night of incident. RSA 626:8, 636:1.

Stephen E. Merrill, Atty. Gen. (T. David Plourde, Asst. Atty. Gen., on the brief), for the State.

Joanne Green, Asst. Appellate Defender, Concord, for defendant.

BATCHELDER, Justice.

The defendant was convicted after a jury trial in Superior Court (O'Neil, J.) of accomplice to robbery. RSA 626:8; RSA 636:1. He was sentenced to twelve months at the county house of correction, with a twelve-month probation period following incarceration, and ordered to make restitution in the amount of \$100. We affirm.

The testimony in this case reveals that in the early morning of October 9, 1986, the victim, Roland Roy, reported that he had been robbed by a group of five young men outside the Mayflower restaurant in Manchester. Roy testified at trial that, upon leaving the restaurant after an afternoon and evening of heavy drinking, he encountered the group of men and agreed to accompany them to a nearby party. He recognized one of the men as the brother of a former girlfriend. He later identified the man by name as the defendant, but not until after he had overheard Officer Kinney of the Manchester Police Department mention the name to another officer. According to Roy, as the group was en route to the party, he was struck in the face by one of the men and fell to the ground. He testified that the defendant kneeled on his chest and pinned him down while one of the other men took his wallet, which contained approximately \$80. Roy further testified that after he was released he called to the fleeing men, "Hamel, give me back my wallet."

Officer Kinney testified before Roy at trial. He described Roy's disheveled physical appearance, including his apparent drunkenness, and testified that he took a description of the defendant from Roy. He added that Roy identified the defendant by name after Kinney mentioned it. He further testified that he saw a group of several young men in the area at the approximate time of the reported robbery.

Prior to trial, the defendant moved to sequester all of the witnesses, which included the two State's witnesses, Roy and Officer Kinney, to prevent them from hearing each other's testimony. The defendant argued that Roy's drunkenness at the time of the incident rendered his potential testi-

mony suspect, and that he should not be permitted the opportunity to conform his testimony to that of Officer Kinney. The defendant suggested, alternatively, that the trial court could order the State to present Roy's testimony first. The trial court granted the sequestration motion except with respect to Roy.

The defendant pursues the same issue on appeal. He claims that under the circumstances of this case it was an abuse of discretion for the trial court not to have sequestered the victim-witness or, in the alternative, to have directed the State to call the victim as its first witness. The State argues, on the other hand, that Rule 615 of the New Hampshire Rules of Evidence precludes the trial court from sequestering the victim of the crime and that, in any event, the defendant has failed to show any prejudice as a result of the trial court's complete denial of relief.

[1, 2] Rule 615 of the New Hampshire Rules of Evidence provides, in pertinent part:

"At the request of a party the court shall in criminal cases . . . order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) . . . a victim of the crime . . ."

N.H.R.Ev. 615. The rule alters our common law to the extent that sequestration of witnesses in criminal cases has traditionally been within the discretion of the trial court. See *State v. Blake*, 113 N.H. 115, 119, 305 A.2d 300, 303 (1973); *State v. Peters*, 90 N.H. 438, 439, 10 A.2d 242, 244 (1939). Under the rule, the trial court must order sequestration in criminal cases upon request. The rule also plainly states that it does not authorize the trial court to exclude the victim of the crime. The trial court here cannot then be said to have committed error with respect to its refusal to sequester Roy.

[3, 4] The defendant's alternative request for the court to direct the order of the State's witnesses requires a different analysis. Authorities have suggested that in certain cases it may be appropriate for a

BEDFORD RESIDENTS v. BEDFORD PLANNING BD. N.H. 225

Cite as 547 A.2d 225 (N.H. 1988)

trial court to direct the order of witnesses so as to achieve the same purpose as that underlying sequestration; i.e., to prevent witnesses from conforming their testimony to that of others. See 6 Wigmore, *Evidence* § 1841, at 476 (Chadbourn rev. 1976) (where party witness not excluded); see also 88 C.J.S. *Trial* § 68 (1955). That decision, however, lies within the sound discretion of the trial court, and it will not be upset on review absent a showing of abuse of discretion. Cf. *McKinney v. Riley*, 105 N.H. 249; 250, 197 A.2d 218, 220 (1964) (order of calling witnesses, at least in civil case, rests in sound discretion of trial court); 6 Wigmore *supra*. Moreover, as the State argues, establishing abuse of discretion necessarily entails a showing of prejudice to the defendant by the trial court's decision. See C. Torcia, *Wharton's Criminal Evidence* § 376, at 502-03 (14th ed. 1986) (denial of motion to sequester not reversible error absent a showing of prejudice); cf. *State v. Hotchkiss*, 129 N.H. 260, 264, 525 A.2d 270, 272 (1987) (admission of evidence must be to prejudice of defendant to constitute abuse of discretion). We are also mindful that the presentation of evidence, which includes the order in which witnesses are called, is a matter of trial strategy for counsel. J. Weinstein & M. Berger, *Weinstein's Evidence* ¶ 611[01], at 611-16 (1987).

[5] Here, the defendant has made only conclusory allegations to the effect that permitting Roy to hear the testimony of Officer Kinney gave Roy an unfair opportunity to color his testimony. Upon review of the record, we do not see that Roy gave testimony that so mirrored that of Officer Kinney as to lead to the conclusion that Roy colored his own testimony to conform to that of Officer Kinney. Nor did the defendant describe any instances in his brief where this occurred. Moreover, defense counsel tried several avenues of impeachment, including focusing on Roy's ability to perceive and relate the facts, as limited by his inebriation, and presenting a defense witness who gave a different account of Roy's activities on the evening of the incident. That the jury was not swayed by these efforts is not enough to

prompt us to overturn the conviction and order a new trial. Finally, while the record reveals that Roy was deposed prior to trial, absent from the record is any attempt on the part of defense counsel to impeach Roy through the use of his deposition.

AFFIRMED.

All concurred.



BEDFORD RESIDENTS GROUP

v.

TOWN OF BEDFORD, PLANNING BOARD, Grove Realty Trust & Roland & Diane Auger.

No. 87-396.

Supreme Court of New Hampshire.

July 11, 1988.

Property owners challenged the validity of a town's zoning amendment. The Superior Court, Hillsborough County, O'Neil, J., found that the property owners had been denied notice. Appeal was taken. The Supreme Court, Johnson, J., held that: (1) the notice provided by the town planning board of the proposed zoning amendment did not comply with the statutory requisites for constructive notice; (2) the defective notice was not cured by subsequent publication of a warrant for the town meeting; and (3) the property owners were not required to exhaust their administrative remedies before challenging the adequacy of notice.

Affirmed.

1. Zoning and Planning ¶194

While property owners need not be afforded actual notice of proposed zoning change, they must be afforded constructive

Collateral references. — Validity, construction, and effect of state laws requiring public officials to protect confidentiality of income tax returns or information. 1 ALR4th 959.

Name appropriation by employer or former employer. 52 ALR4th 156.

False light invasion of privacy — cognizability and elements. 57 ALR4th 22.

Invasion of privacy by a clergyman, church, or religious group. 67 ALR4th 1086.

Nonconsensual treatment of involuntarily committed mentally ill persons with neuroleptic or antipsychotic drugs as violative of state constitutional guarantee. 74 ALR4th 1099.

Section 23. Resident Preference. This constitution does not prohibit the State from granting preferences, on the basis of Alaska residence, to residents of the State over nonresidents to the extent permitted by the Constitution of the United States.

Effective dates. — This section took effect January 4, 1989 (15th Legislature's CSHJR 18 (1988).)

Section 24. Rights of Crime Victims. Crime victims, as defined by law, shall have the following rights as provided by law: the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication.

Effective dates. — This section took effect December 30, 1994 (18th Legislature's Legislative Resolve No. 58).

Article II

The Legislature

Section 1. Legislative Power; Membership. The legislative power of the State is vested in a legislature consisting of a senate with a membership of twenty and a house of representatives with a membership of forty.

Opinions of attorney general. — Distinction between legislative and executive powers. See July 22, 1976, Op. Att'y Gen.

Vesting authority in the legislative Budget and Audit Committee to approve transfers between appropriation items violates the separation of powers doctrine and is an improper delegation of a legislative function to an interim committee. July 22, 1976 Op. Att'y Gen.

Section 13(3) of the 1976 budget bill, which autho-

ritized the Budget and Audit Committee to supervise the governor's execution of the budget act, specifically over that portion of it which permitted him to transfer appropriation items constituted an encroachment on executive power and offended the Alaska Constitution. July 22, 1976 Op. Att'y Gen.

The apparent invalidity of Alaska's apportionment plan does not transform its legislature into an illegal assembly, prohibited from meeting and enacting laws. 1964 Op. Att'y Gen. No. 4.

NOTES TO DECISIONS

Separation of powers doctrine requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision. *Bradner v. Hammond*, 563 P.2d 1 (Alaska 1978).

Confirmation is not a distinct legislative power, but rather a part of the executive power of appointment which has in turn been delegated in

some specific instances by constitution to the legislative branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1978).

Limitation on legislative checks on governor's power. — The lack of ambiguity in Alaska Const., art. III, §§ 25 and 26 mandate that the supreme court interpret these express provisions as embodying not only the maximum parameters of the delegation of the

ALASKA STATE LEGISLATURE
HOUSE BILL NO. 9

HISTORY IN THE HOUSE

HISTORY IN THE SENATE

1997
1/13 Read first time and referred to:
Jud FIN

1/27 Jud RPT(5) CS(Jud) 2 New Title
DP 0 DNP 2 NR 0 AM
FN 4 OFN 2 Previous FN

2/19 Fin RPT(10) CS(Fin) 5 New Title
DP 0 DNP 5 NR 0 AM
FN 1 OFN 2 Previous FN 3

3/7 Read second time
CS(FIN) Adopted

3/7 Amended

3/7 Advanced

3/7 Read third time

Return to second for specific amendment

3/7 PASSED 29 YES 4 NAYS 2 EXCUSED 5 ABSENT
COURT RULES AND EFD Same or
Yea 29 Yes
Nays 4 Nays
Excused 2 Excused
Absent 5 Absent

Intent adopted

3/7 Reconsideration Kott

3/7 Reconsideration not taken up

3/7 PASSED ON RECON. 31 YES 4 NAYS 2 EXCUSED 1 ABSENT
COURT RULES AND EFD Same or
Yea 31 Yes
Nays 4 Nays
Excused 2 Excused
Absent 1 Absent

Intent adopted

3/7 Reported correctly engrossed
Signed by Speaker, to the Senate
Suzi Lowell
Chief Clerk of the House

1997
3/10 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
Yea Yes
Nays Nays
Excused Excused
Absent Absent

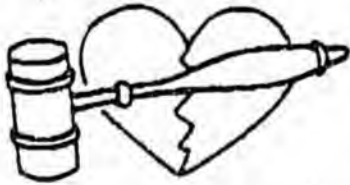
Reconsideration
Reconsideration not taken up

PASSED EFD Same or
Yea Yes
Nays Nays
Excused Excused
Absent Absent

Reported correctly engrossed
Signed by President, to the House

Secretary of the Senate

VICTIMS



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

January 15, 1997

The Honorable Brian Porter
Alaska House of Representatives
Juneau, AK 99811

Dear Representative Porter:

My name is Janice Lienhart. I am the co-founder of Victims for Justice in Anchorage. Victims for Justice and its Board of Directors have long been champions in Alaska for the rights of crime victims.

I am joining with scores of other crime victims and concerned citizens across Alaska to support HB 9, "the right of crime victims and victims of juvenile offenses to be present at court proceedings; and amending Rule 615, Alaska Rules of Evidence, by making the witness exclusion rule inapplicable to victims of offenses."

To fully understand the need for this amendment, each of us must answer this question: How would I wish to be treated if I or a loved one were a victim of a violent crime? No one expects or deserves to be a victim of a violent crime. And when that happens victims not only suffer crime's consequences, but are victimized by the criminal justice system as well. Despite the passage of the Alaska's Victims' Bill of Rights Amendment to our state constitution in 1994, Alaskan victims of crime are still being re-victimized. *Because the system is perfectly tolerant of the unequal treatment for victims who are daily excluded from courtrooms because they may be called as witnesses.* Defendants may be witnesses in their own trials but they of course have a right nonetheless to remain in the courtroom. If juries can put aside influences by the defendants they certainly can by victims.

Providing services to survivors of homicide victims and physical assaults

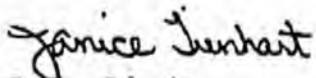
Representative Porter
Page 2

The right to be informed of and given the opportunity to be present at every proceeding in which those rights are extended to the accused or convicted offender should be intended to expressly overturn all witness exclusion rules that presently result in the expulsion of the victims from the courtroom. It should mandate that the same standard be used for the victim and the defendant; hence it should be intended that the same rules govern the presence of the victim that govern the presence of the defendant.

Only when the rights of victims, *such as the right to be present at trial proceedings*, are given equal weight to the rights of the accused, will they be guaranteed protection under the law.

Passage of HB 9 sends a clear message that *victim justice* must be an integral component of criminal justice in Alaska, as well as setting an unprecedented standard for our nation.

Sincerely,



Janice Lienhart
Executive Director
Victims for Justice



MADD

Telephone: (907) 522-6233
FAX: (907) 522-6234

Mothers Against Drunk Driving

Anchorage Chapter
615 East 82nd Avenue, Ste. B 1
Anchorage, AK 99518-3157

DATE: January 16, 1997
TO: Representative Brian Porter
FROM: Marti Greeson, Executive Director
Mothers Against Drunk Driving
RE: House Bill No. 9

Marti Greeson

This letter is in support of House Bill No. 9 which will ensure the protection of a victim's right to be present during criminal proceedings including juvenile proceedings.

The rights of victims as stated in the Victims Rights amendment must be protected at least to the extent that defendant's rights are protected. Victims have been excluded from the criminal justice process and left to suffer unanswered questions, trauma and loss, and frequently second and ensuing victimization through that exclusion far too long.

The fact that a perpetrator of a criminal act is a juvenile does not negate nor diminish the impact and affect of the violation or trauma for the victim.

Please feel free to contact me if you have any questions.

184
File

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



January 17, 1997

Business Manager

Joseph E. Young
Anchorage

Board of Directors

- Michael Corkill, President
Fairbanks
- Robin Lown, Vice President
Juneau
- Mike Grimes, Past President
Anchorage
- Ron Belden, Member
Kenai
Pres. Kenai Chapter
- Leo Brandlen, Member
Anchorage
Pres. Anchorage Chapter
- Sam Edwards, Member
Palmer
Pres. Mat-Su Chapter
- Steve Heckman, Member
Fairbanks
Pres. Farthest North Chapter
- Steve Kalwara, Member
Juneau
Pres. Capitol City Chapter
- Scott Chafin, Member
Wrangell
Pres. Wrangell Chapter
- Leroy Mestas, Member
Ketchikan
Pres. First City Chapter
- James See, Member
Craig
Pres. Prince of Wales Chapter

Representative Brian Porter
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Representative Porter,

On behalf of the Alaska Peace Officers Association, I would like to thank you for introducing House Bill 9 relating to the right of crime victims and victims of juvenile offenses to be present at court proceedings and amending Rule 615 of the Alaska Rules of Evidence. At a recent meeting of the APOA State Board, we decided to unanimously support this legislation. We believe that this legislation would better communicate to offenders especially juveniles how their illegal activities affect victims. We also believe that this legislation would further tear down the walls of confidentiality that currently protect juvenile offenders. Finally, we feel that victims should have the right to know how their case is being handled by the courts.

We encourage you to call on us when there are hearings on this bill, so that we may testify about the need for this legislation. If you need assistance as you shepherd this bill through the legislative process, please call me at 451-5316, or our business manager, Joseph Young at 277-0515.

Sincerely,

Michael Corkill
APOA State President

RECEIVED FEB 3 1997

The Honorable Senator Robin Taylor, Chairman
Judiciary Committee
State Capitol
Juneau, AK 99801-1182

Dear Senator Taylor:

I am writing to you to urge you to support HB 9 with an amendment to **NOT LIMIT** the number of victims that can speak at a juvenile proceeding. Victims of crime deserve equal rights to the defendant and have a right to attend all hearings the defendant attends. Healing comes to victims as they are provided with information that enables them to find answers to their victimization. The trial is the vehicle for this closure.

Section 4 line 12 and 13 states "if there are numerous victims of a minor's offense the court may limit the number of victims who may give sworn testimony." Sentencing is the only time in the criminal proceedings that the victim has a say. Therefore, it is important that each family member who wants to speak gets the opportunity to speak at the sentencing, especially in juvenile proceeding. The juvenile **MUST** be told about the traumatic impact his or her crime has on the family and the volumes of other people that are affected by his or her criminal behavior.

The judge should not be the one to choose which family members should speak at the sentencing. Whoever needs to speak at the sentencing should have that right. When a person is murdered studies show there are at least seven to ten family members who experience acute grief. How can a judge decide who is the most important family member to share their pain? This is the victim's day in court and they should have the privilege and more importantly, the constitutional right to be allowed to tell the defendant what their criminal actions do to the family and a community.

Sincerely,

SUPPORT HOUSE BILL 9 (HB 9)

HB 9 states "that a victim may not be excluded from the courtroom during testimony that occurs when the accused has the right to be present even if the victim is likely to be called as a subsequent witness."

It also states in HB 9 Section 4: line 12 and 13. "If there are numerous victims of a minor's offense, the court may limit the number of victims who may give sworn testimony or make an unsworn oral presentation, but the court may not limit the right of a victim to attend a hearing even if the victim is likely to be a witness in a hearing concerning the minor's alleged offense." *Victims for Justice does not agree with limiting the number of victims who testify.*

Please help Victims for Justice's efforts to support this important legislation, with the amendment of not limiting the number of victims who may give testimony about the impact of the violent crime on them. You can show your support by acting quickly on the following two suggestions:

1. Send a public opinion message (POM):

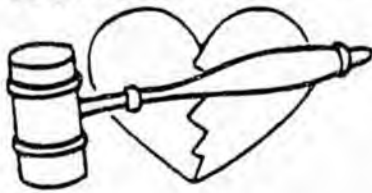
Call the Legislative Information Office at 258-8111. Tell them you would like to send a public opinion message (POM).

They will ask you:

1. Your name
2. Your address
3. Your zip code
4. A day time phone number
5. The bill number (HB 9)
6. Who to (all the legislators)
7. Your message (use the sample below or state in your own words):

"The Victims' Constitutional Amendment states that victims have the right to be present at all hearings the accused are present at. I strongly support HB 9 with the amendment to not limit the number of victims. HB 9 will guarantee my constitutional right to be present throughout the trial."

- 2. Write a letter to Senator Robin Taylor, Chairman of the Judiciary Committee. He can influence the committee to support HB 9 if he receives your letter. I am enclosing a sample letter for you to use if you choose. (mail or fax to 1-907-465-3922)**



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

January 27, 1997

Dear Friends,

Grief support is **Thursday, February 6th at 7:00 PM and Thursday, February, 20th at 7:00 PM.** The grief support meeting are held in the conference room at Victims for Justice which is located at 619 E. 5th Avenue.

You Know You Are Making Progress When

Judy Osgood

You Know You Are Making Progress When...

You can remember your child with a smile.

You can reach out to help someone else.

You stop dreading the holidays.

You can be alone in your house without it bothering you.

You can talk about what happened to your child without falling apart.

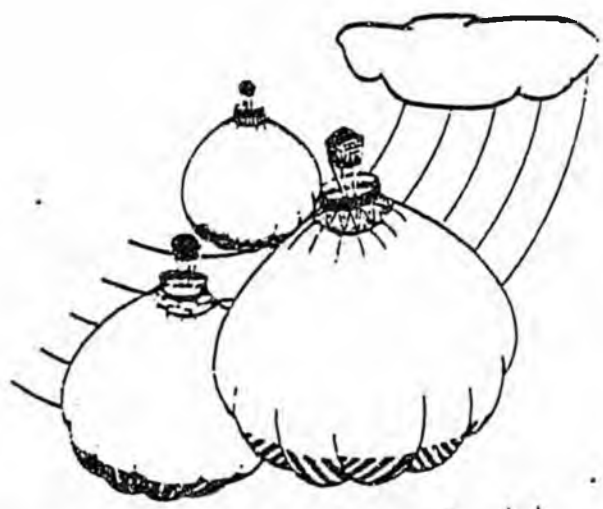
You no longer feel you have to go to the cemetery every day or week.

You can appreciate a sunset, the beauty of freshly fallen snow, and the love of those you have.

Sincerely,

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

Janice Lienhart




Dear Friends,


HOPE FOR YOUTH



2-97




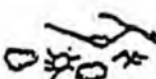
There are points in our grief journey where we can become very FRUSTRATED. 



FRUSTRATION is a feeling we might have when we are both sad and angry together. When we are FRUSTRATED, we may be

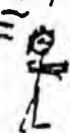
"sick and tired" of being in grief.  We



could miss our loved one who died.  and just want them back,  no matter what! We


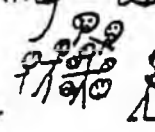
might think,  "I don't care if my loved one died, or why they died, I just want them


to come back - Now!!!"  Of course, the


feelings of frustration become stronger  when our loved one doesn't return to us  physically.


Frustration can become a problem $\cong x+y=? \cong$ if we don't do anything with it. 

Frustration can build up,  and we can become so angry 



and sad  that we stop talking about our feelings, and stop reaching out to others. 



If we do this, we can "build a wall" around ourselves and become very alone.  My friends, it is important

to know  that we can use frustration to



actually HELP  ourselves through our grief



journey! Frustration is often necessary for us to

CHANGE.  If we become frustrated  and "sick

and tired" of things, we might be more willing to take risks  and try new ways  to cope.

Taking risks, whether it works or not, will always

lead to learning  and growth.  FRUSTRATION

can be the feeling that leads us to better paths!  LOVE, MARK 

> 3

3 of 7 items

CQ's WASHINGTON ALERT 03/21/97

FULL REPORT - DIGEST, LEGISLATIVE ACTION, COSPONSORS, SPEECHES

MEASURE:

HR924

SPONSOR:

McCollum (R-FL)

BRIEF TITLE:

Victim Allocation Clarification Act of 1997.

OFFICIAL TITLE: A bill to amend title 18, U.S. Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime.

QUICK REFERENCE: Allow victims of crimes to attend court proceedings

INTRODUCED: 03/05/97

-More- (Q = Quit, G = Go, Space Bar = Next Line, Return = Next Screen)

COSPONSORS: 2 (Demo: 1 Rep: 1 Ind: 0)

COMMITTEES:

House Judiciary

RELATED BILLS:

Sen S447, SJRes8

CQ BILLWATCH BRIEF:

By Emily Pierce, CQ Staff Writer

As passed by the Senate and the House, HR924 would prevent judges from barring victims of a crime from attending the trial of those accused of the crime.

Currently, victims are allowed to attend sentencing hearings, but some judges do not allow victims to attend the actual trial.

The bill would allow victims who may testify during the sentencing phase to attend the trial also.

While the bill generally applies to all criminal cases, bill cosponsor Frank D. Lucas, R-Okla., said he supported the measure because he felt the victims of the April 1995 bombing of a federal building in Oklahoma City deserved to be present at the trial of the accused bomber. A provision in the bill would allow the act to apply to cases currently pending in court, such as the trial of Timothy McVeigh, the alleged Oklahoma City bomber.

Bill supporters contend that no one will be negatively impacted by the bill, but Massachusetts Democrat Bill Delahunt said that HR924 "strikes at the integrity of the judicial process" and "may ultimately do a disservice to the very victims."

CQ BILLWATCH INSIGHT:

The Senate passed HR924 by a voice vote, with no debate, on March 18, 1997. The measure has been cleared for the president's signature.

The House passed the bill by a voice vote on March 18 under suspension of the rules, an expedited procedure that limits debate and requires a two-thirds majority of members present for passage.

The House Judiciary Committee approved the bill on March 12 after amending it to clarify that victims could testify at a sentencing hearing even if they attend the trial.

The committee rejected amendments by Democratic opponents of the measure that would have exempted cases currently pending in court and cases in which the death penalty may be invoked.

2

SHORT TITLE AS INTRODUCED:

Victim Allocation Clarification Act of 1997

LEGISLATIVE ACTION:

-More- (Q = Quit, G = Go, Space Bar = Next Line, Return = Next Screen)

01/21/97 *** Related measure (S.1558) Introduced in Senate. ***

03/05/97 Referred to Committee on the Judiciary (CR p. H765)

03/06/97 Original Cosponsor(s): 2
Lucas (R-OK) Schumer (D-NY)03/06/97 Subcommittee consideration and markup held by the House
Judiciary Committee, Subcommittee on Crime. (CR p. D197)03/08/97 ** SUBCOMMITTEE VOTE ** HR924. Victim Allocation
Clarification Act of 1997/Vote to Report. Prevent federal
judges from excluding witnesses who wish only to make
"victim impact statements" related to the sentencing of a
defendant after the fact-finding portion of a trial is
completed. Approved en bloc with other legislation by
voice vote March 8, 1997.03/08/97 Approved for full committee action by the House Judiciary
Committee, Subcommittee on Crime. (CR p. D197)03/12/97 Committee consideration and markup session held by the
House Judiciary Committee. (CR p. D228)03/12/97 ** COMMITTEE VOTE ** HR924. Victim Allocation
Clarification Act/Sentencing hearing. McCollum, R-Fla.,
amendment that would clarify that victims could testify
with a victim impact statement during the sentencing
hearing of a defendant even if the victim is present
during the trial. Approved by voice vote March 12, 1997.03/12/97 ** COMMITTEE VOTE ** HR924. Victim Allocation
Clarification Act/Pending cases. Scott, D-Va., amendment
that would require that the provisions of the bill not
apply to cases currently pending in court. Rejected by
voice vote March 12, 1997.03/12/97 ** COMMITTEE VOTE ** HR924. Victim Allocation
Clarification Act/Death penalty cases. Scott, D-Va.,
amendment that would require that the provisions of the
bill not apply to cases in which the death penalty may be
sentenced. Rejected by voice vote March 12, 1997.03/12/97 ** COMMITTEE VOTE ** HR924. Victim Allocation
Clarification Act/Vote to Report. Change the rules
governing witness testimony at criminal trials. The
measure would prevent federal judges from excluding
witnesses from criminal trial proceedings in certain
cases. Reported favorably to the full House by voice vote
March 12, 1997.03/12/97 Ordered to be reported by the House Judiciary Committee
amended. (CR p. D228)

03/14/97 *** Related measure (S447) Introduced in Senate. ***

03/17/97 Reported to the House amended by the House Committee on
the Judiciary H/Rpt 103-29 (CR p. H1039)

03/17/97 Placed on the Union Calendar by unanimous consent. (CR p. H1039)

03/18/97 MCCOLLUM, R-Fla., motion to suspend the rules and pass the bill. (CR p. H1048-H1062, H1067-H1068)

03/18/97 Measure, as amended, passed in House by yeas-nays vote: 415-9, under suspension of the rules (two-thirds vote required). (see CR p.H1068) (Text of bill, as passed by the House, appears on pg. H1048 of the March 18, 1997, Congressional Record.) (House Vote 82) (CR p. H1048-H1052, H1067-H1068)

03/18/97 Considered by the Senate. (CR p. S2507-S2509)

03/19/97 Measure passed in Senate by unanimous consent. (see CR p.S2509) (CR p. S2507-S2509)

03/19/97 Measure has now been cleared for enrollment. (CR p. S2509)

03/19/97 Enrolled measure signed in the Senate. (CR p. S2557)

03/19/97 Enrolled measure signed in the House. (CR p. H1164)

There are no more items to display.

Enter one or more numbers or ALL to display item(s).
Enter another display command and one or more numbers or ALL.
Enter MARK or SAVE and one or more numbers to limit or save your set.
Enter SMARTMATCH and a number to find comparable items.
Or enter BACK, HELP, or STOP

You have entered an invalid command. Please try again, or you can enter HELP or call customer service for assistance. For details on using the Washington Alert hotline, enter HELP HOTLINE.

Re-enter your command or enter MENU or HELP

4

> 5

Text of 924

5 of 5 items

CC's WASHINGTON ALERT 03/21/87

HR924 McCollum (R-FL) 03/19/87 (80 lines)
Enrolled (finally passed both houses)

Victim Allocation Clarification Act of 1987.

No special typefaces used in this bill version.
Item Key: 2210

H.924

One Hundred Fifth Congress

-More- (Q = Quit, G = Go, Space Bar = Next Line, Return = Next Screen)

of the

United States of America

AT THE FIRST SESSION

Began and held at the City of Washington on Tuesday,
the seventh day of January, one thousand nine hundred and
ninety-seven

AN ACT

To amend title 18, United States Code, to give further assurance to
the right of victims of crime to attend and observe the trials of
those accused of the crime.

Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Victim Rights Clarification Act
of 1987".

SEC. 2. RIGHTS OF VICTIMS TO ATTEND AND OBSERVE TRIAL.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code,
is amended by adding at the end the following:

"18A3510. Rights of victims to attend and observe trial.

(a) NON-CAPITAL CASES.—Notwithstanding any statute, rule, or
other provision of law, a United States district court shall not
order any victim of an offense excluded from the trial of a
defendant accused of that offense because such victim may, during
the sentencing hearing, make a statement or present any information
in relation to the sentence.

(b) CAPITAL CASES.—Notwithstanding any statute, rule, or
other provision of law, a United States district court shall not
order any victim of an offense excluded from the trial of a
defendant accused of that offense because such victim may, during
the sentencing hearing, testify as to the effect of the offense on

5

the victim and the victim's family or as to any other factor for which notice is required under section 3503(a).

"(e) DEFINITION.--As used in this section, the term 'victim' includes all persons defined as victims in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990."

(b) CLERICAL AMENDMENT.--The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following new item:

"3510. Rights of victims to attend and observe trial."

(c) CLARIFICATION OF GROUNDS FOR EXCLUSION.--Section 3503(c) of title 18, United States Code, is amended by inserting "For the purposes of the preceding sentence, the fact that a victim, as defined in section 3510, attended or observed the trial shall not be construed to pose a danger of creating unfair prejudice, confusing the issues, or misleading the jury." after "misleading the jury."

(d) EFFECT ON PENDING CASES.--The amendments made by this section shall apply in cases pending on the date of the enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

There are no more items to read.

Enter one or more numbers or ALL to display item(s).
Enter another display command and one or more numbers or ALL.
Enter MARK or SAVE and one or more numbers to limit or save your set.
Enter SMARTMATCH and a number to find comparable items.
Or enter BACK, HELP, or STOP

RECEIVED FEB 17 1997

The Honorable Senator Robin Taylor, Chairman
Judiciary Committee
State Capitol
Juneau, AK 99801-1182

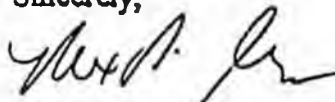
Dear Senator Taylor:

I am writing to you to urge you to support HB 9 with an amendment to NOT LIMIT the number of victims that can speak at a juvenile proceeding. Victims of crime deserve equal rights to the defendant and have a right to attend all hearings the defendant attends. Healing comes to victims as they are provided with information that enables them to find answers to their victimization. The trial is the vehicle for this closure.

Section 4 line 12 and 13 states "if there are numerous victims of a minor's offense the court may limit the number of victims who may give sworn testimony." Sentencing is the only time in the criminal proceedings that the victim has a say. Therefore, it is important that each family member who wants to speak gets the opportunity to speak at the sentencing, especially in juvenile proceeding. The juvenile MUST be told about the traumatic impact his or her crime has on the family and the volumes of other people that are affected by his or her criminal behavior.

The judge should not be the one to choose which family members should speak at the sentencing. Whoever needs to speak at the sentencing should have that right. When a person is murdered studies show there are at least seven to ten family members who experience acute grief. How can a judge decide who is the most important family member to share their pain? This is the victim's day in court and they should have the privilege and more importantly, the constitutional right to be allowed to tell the defendant what their criminal actions do to the family and a community.

Sincerely,



REX P. GONZALEZ
925 EAST 17TH AVENUE
ANCHORAGE, ALASKA
99501-560X

The Honorable Senator Robin Taylor, Chairman
Judiciary Committee
State Capitol
Juneau, AK 99801-1182

Dear Senator Taylor:

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Sincerely,

Rebecca L. Stephen

The Honorable Senator Robin Taylor, Chairman
Judiciary Committee
State Capitol
Juneau, AK 99801-1182

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Sincerely,

Art McHall
535 N Brough ⁴³
272-8603

The Honorable Senator Robin Taylor, Chairman
Judiciary Committee
State Capitol
Juneau, AK 99801-1182


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3705 Arctic Blvd #2718
Anchorage, AK 99503

The Honorable Senator Robin Taylor, Chairman
Judiciary Committee
State Capitol
Juneau, AK 99801-1182

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Sincerely,

Charles W. Doty
516 N. BRAGAW
ANCH. AK. 99508

The Honorable Senator Robin Taylor, Chairman
Judiciary Committee
State Capitol
Juneau, AK 99801-1182

Dear Senator Taylor:

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Sincerely,

Richard F. Coydell

Pearlene Hernandez-Villa, 9499 Brayton Dr., #267, Anchorage, Alaska, 99507, (907) 349-4685

February 28, 1997

The Honorable Senator Robin Taylor, Chairman
Judiciary Committee
State Capitol
Juneau, AK 99801-1182

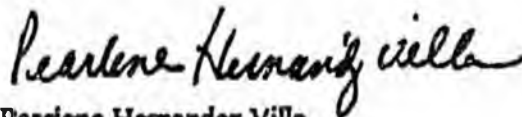
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Sincerely,



Pearlene Hernandez Villa
UAA - BSW Student

HB

11

FISCAL NOTE

No. 2
 Bill Version: HB 11
 (H) Publish Date: 4/18/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act relating to driver licensing
 Sponsor: Representative Green
 Requester: (H) FIN

Department Affected: Administration
 BRU: Motor Vehicles
 Component: Driver Services
 COMPONENT SERIAL NO. 500

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	22.9	36.7	36.7	36.7	36.7	36.7
TRAVEL	5.6	0	0	0	0	0
CONTRACTUAL	62.8	2.3	2.3	2.3	2.3	2.3
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT	16.5	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	108.3	39.5	39.5	39.5	39.5	39.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1005)	163.0	163.0	163.0	163.0	163.0	163.0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	77.1					
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	31.2	39.5	39.5	39.5	39.5	39.5
1037 GF/Mental Health						
OTHER						
TOTAL	108.3	39.5	39.5	39.5	39.5	39.5

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared by: Juanita M. Hensley
 Division: Motor Vehicles

Phone: 465-2650
 Date: April 7, 1997

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 4/1/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 11

Revision Date: April 7, 1997

Department Affected: Administration

ANALYSIS: (continued)

In 1993, the National Highway Traffic Safety Administration (NHTSA) offered to states direct grants to assist in the implementation and evaluate a graduated license system. In 1994, Alaska and North Carolina were the only two states to be awarded these grants. Alaska's grant was in the amount of \$77.1.

Traffic crashes are the number one cause of death for youth nationwide. Alaska statistics are no different than the national statistics.

The impact this bill has on the Division of Motor Vehicles is the issuance of the full driver's license after the provisional license period is over. This bill requires the person be re-issued a driver's license without the provisional license restriction. The person will be required to pay a duplicate license fee of \$10. The division issued approximately 10,000 driver's licenses in 1994 to individual's in this age group. This will generate approximately \$100.0 in new general fund program receipts.

A person of this age group will have the driver's license suspended for accumulation of points at the 8 point level instead of 12 points in a 12 month period. In 1995, 1,205 warning notices were sent to individual's in this age group. It is anticipated, this bill, will cause a deterrent effect on this age group and, approximately 500 of these individuals will not reach the 6 point accumulation. This will result in approximately 700 additional point suspensions yearly. Since the point suspension notices are automated, the cost the Division will incur is for the postage to mail the suspension notices to the individual. The law requires these notices to be mailed by certified mail return receipt. Postage rate for certified mail is \$2.52 each.

It is estimated, 90 percent of all persons whose license is suspended will reinstate their driver's license. A \$100.00 reinstatement fee is charged anytime a person has had their license suspended. This will generate approximately \$63.0 in new general fund program receipts revenue. The total amount of additional new general fund program receipt revenue generated by this bill is \$163.0

The following is a cost breakdown associated with Alaska's graduated license implementation grant.

Personnel Services.	\$ 4.5	(Overtime cost associated with the grant administration.)
Travel	\$ 5.6	
Contractual	\$60.5	
Equipment	\$ 6.5	
TOTAL	\$77.1	

The following analysis is an estimate of the operational cost the Division of Motor Vehicles anticipates with the passage of this bill.

	FY98	FY99
<u>PERSONAL SERVICES</u>		
1 Motor Vehicle Representative (Anchorage) 1/2 year FY98	\$18.4	\$36.7
Federal Grant Receipts	\$4.5	
<u>TRAVEL</u>		
Federal Grant Receipts	\$5.6	
<u>CONTRACTUAL</u>		
Postage 700 notices (certified mail) @ \$2.52 each	\$1.8	\$1.8
Computer (Mainframe Connection)..yearly costs	\$0.5	\$0.5
Federal Grant Receipts	\$60.5	
\$ 9.6	Data Processing Fees	
\$ 30.0	Computer Programming	
\$ 6.6	Public Service Announcements and Brochures	
\$ 13.0	Public Opinion Survey	
\$ 1.3	Tuition-National Judicial College for Hearing Officer Training	

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 11

Revision Date: April 7, 1997

Department Affected: Administration

SUPPLIES

Routine office supplies \$0.5 \$0.5

EQUIPMENT

1 Complete Computer Workstation \$10.0

One time costs

Federal Grant Receipts \$6.5

Upgrade of Computer equipment and software

TOTAL \$108.3 \$39.5

SENATE COMMITTEE REPORT

DATE: 5/7/97

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5/8/97

Judiciary Committee considered

HOUSE BILL NO. 11

"An Act relating to driver's licensing; and providing for an effective date."

and recommends:

- be replaced with S CS HB 11 (_____)
- 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# _____

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Mike Miller</i>		X	
		<i>Steve R. Powell</i>	✓		
CHAIR:		CHAIR: <i>Adrian T. Taylor</i>		✓	

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Admin/Dmv</i>	<i>5/8/97</i>		✓

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SCSHB 11 (JUD)

Revision Date: May 8, 1997
Title: An Act relating to driver licensing

Department Affected: Administration
BRU: Motor Vehicles

Sponsor: Representative Green
Requester: (S)JUD

Component: Driver Services

COMPONENT SERIAL NO. 500

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	22.9	36.7	36.7	36.7	36.7	36.7
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EQUIPMENT	16.5	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	108.3	39.5	39.5	39.5	39.5	39.5

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

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OTHER						
TOTAL	108.3	39.5	39.5	39.5	39.5	39.5

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
SEE ATTACHED

Prepared by: Juanita M. Hensley
Division: Motor Vehicles

Phone: 465-2550
Date: May 8, 1997

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 5/8/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SCSHB 11 (JUD)

Revision Date: May 8, 1997

Department Affected: Administration

ANALYSIS: (continued)

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Equipment.....\$ 6.5
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Federal Grant Receipts	\$60.5	
<p>\$9.6 Data Processing Fees \$30.0 Computer Programming \$6.6 Public Service Announcements and Brochures \$13.0 Public Opinion Survey \$1.3 Tuition-National Judicial College for Hearing Officer Training</p>		

SUPPLIES
Routine office supplies

	\$0.5	\$0.5
--	-------	-------

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SCSHB 11 (JUD)

Revision Date: May 8, 1997

Department Affected: Administration

EQUIPMENT

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One time costs

\$10.0

Federal Grant Receipts \$6.5

Upgrade of Computer equipment and software

TOTAL \$108.3 \$39.5

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SCSHB 11 (JUD)

Revision Date: May 8, 1997
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 Sponsor: Representative Green
 Requester: (S)JUD

Department Affected: Administration
 BRU: Motor Vehicles
 Component: Driver Services
 COMPONENT SERIAL NO. 500

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	22.9	36.7	36.7	36.7	36.7	36.7
TRAVEL	5.6	0	0	0	0	0
CONTRACTUAL	62.8	2.3	2.3	2.3	2.3	2.3
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT	16.5	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	108.3	39.5	39.5	39.5	39.5	39.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1005)	163.0	163.0	163.0	163.0	163.0	163.0
---------------------------	-------	-------	-------	-------	-------	-------

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	77.1					
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	31.2	39.5	39.5	39.5	39.5	39.5
1037 GF/Mental Health						
OTHER						
TOTAL	108.3	39.5	39.5	39.5	39.5	39.5

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
SEE ATTACHED

Prepared by: Juanita M. Hensley
 Division: Motor Vehicles

Phone: 465-2650
 Date: May 8, 1997

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 5/8/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SCSHB 11 (JUD)

Revision Date: May 8, 1997

Department Affected: Administration

ANALYSIS: (continued)

In 1993, the National Highway Traffic Safety Administration (NHTSA) offered to states direct grants to assist in the implementation and evaluate a graduated license system. In 1994, Alaska and North Carolina were the only two states to be awarded these grants. Alaska's grant was in the amount of \$77.1.

Traffic crashes are the number one cause of death for youth nationwide. Alaska statistics are no different than the national statistics.

The impact this bill has on the Division of Motor Vehicles is the issuance of the full driver's license after the provisional license period is over. This bill requires the person be re-issued a driver's license without the provisional license restriction. The person will be required to pay a duplicate license fee of \$10. The division issued approximately 10,000 driver's licenses in 1994 to individual's in this age group. This will generate approximately \$100.0 in new general fund program receipts.

A person of this age group will have the driver's license suspended for accumulation of points at the 8 point level instead of 12 points in a 12 month period. In 1995, 1,205 warning notices were sent to individual's in this age group. It is anticipated, this bill, will cause a deterrent effect on this age group and, approximately 500 of these individuals will not reach the 6 point accumulation. This will result in approximately 700 additional point suspensions yearly. Since the point suspension notices are automated, the cost the Division will incur is for the postage to mail the suspension notices to the individual. The law requires these notices to be mailed by certified mail return receipt. Postage rate for certified mail is \$2.52 each.

It is estimated, 90 percent of all persons whose license is suspended will reinstate their driver's license. A \$100.00 reinstatement fee is charged anytime a person has had their license suspended. This will generate approximately \$63.0 in new general fund program receipts revenue. The total amount of additional new general fund program receipt revenue generated by this bill is \$163.0

The following is a cost breakdown associated with Alaska's graduated license implementation grant.

Personnel Services.....	\$ 4.5 (Overtime cost associated with the grant administration.)
Travel.....	\$ 5.6
Contractual.....	\$60.5
Equipment.....	\$ 6.5
TOTAL.....	\$77.1

The following analysis is an estimate of the operational cost the Division of Motor Vehicles anticipates with the passage of this bill.

	<u>FY98</u>	<u>FY99</u>
<u>PERSONAL SERVICES</u>		
1 Motor Vehicle Representative (Anchorage) 1/2 year FY98	\$18.4	\$36.7
Federal Grant Receipts	\$4.5	
<u>TRAVEL</u>		
Federal Grant Receipts	\$5.6	
<u>CONTRACTUAL</u>		
Postage 700 notices (certified mail) @ \$2.52 each	\$1.8	\$1.8
Computer (Mainframe Connection)..yearly costs	\$0.5	\$0.5
Federal Grant Receipts	\$60.5	
\$9.6 Data Processing Fees		
\$30.0 Computer Programming		
\$6.6 Public Service Announcements and Brochures		
\$13.0 Public Opinion Survey		
\$1.3 Tuition-National Judicial College for Hearing Officer Training		

SUPPLIES

Routine office supplies	\$0.5	\$0.5
-------------------------	-------	-------

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SCSHB 11 (JUD)

Revision Date: May 8, 1997

Department Affected: Administration

EQUIPMENT

1 Complete Computer Workstation
One time costs

\$10.0

Federal Grant Receipts \$6.5

Upgrade of Computer equipment and software

TOTAL \$108.3 \$39.5

A M E N D M E N T

OFFERED IN THE SENATE

TO: HB 11

1 Page 3, following line 11:

2 Insert new bill sections to read:

3 **** Sec. 5.** AS 28.15.241(b) is amended to read:

4 (b) In addition to (a) of this section, two points shall be deducted from the
5 assessed total upon the driver's furnishing to the department adequate proof of
6 successful completion, within 12 months of the date of the driver's last violation, of
7 a driver improvement course approved by the department, except that

8 (1) not [. NO] more than one driver improvement course may be
9 used to obtain a reduction in points in any 12-month period; and

10 (2) a driver improvement course for a person under 21 years of
11 age must be a course that is designed to benefit persons under 21 years of age
12 and must be certified by a national organization.

13 *** Sec. 6.** AS 28.15.253 is amended to read:

14 **Sec. 28.15.253. Driver improvement course.** Upon conviction of a violation
15 of a traffic law that results in a driver accumulating six or more points from offenses
16 committed during any consecutive 12-month period or nine or more points from
17 offenses committed during any 24-month period, on request of the department, the
18 court may, in addition to any other penalty authorized by law, require the driver to
19 successfully complete a driver improvement course approved by the department within
20 a period of time prescribed by the court. A driver improvement course approved
21 under this section for a person who is under 21 years of age must be a course
22 that is designed to benefit persons under 21 years of age and must be certified
23 by a national organization. The department may suspend, revoke, or deny the
24 driver's license of a person who fails to successfully complete the driver improvement
25 course required by the court under this section within the prescribed time period."

- 1 Renumber the following bill sections accordingly.

Alaska State Legislature

WHILE IN SESSION
CAPITOL BUILDING
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1-800-870-4931
(907) 465-4316 FAX

INTERIM ADDRESS
716 WEST 4TH AVENUE
ANCHORAGE ALASKA 99501
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& SOCIAL SERVICES COMMITTEE
MEMBER RESOURCES COMMITTEE

FINANCE SUBCOMMITTEES
DEPT OF COMMERCE & ECONOMIC
DEVELOPMENT
ALASKA COURT SYSTEM

Representative Joe Green
District 10

Sponsor Statement

HB 11 - "Licensing Requirements for Young Drivers"

HB 11 establishes new rules for young drivers. Due to the high incidence of accidents, injury, and death among teenage drivers many states, and other political jurisdictions, are changing the rules which grant teenagers the "license" to drive.

One strategy to reduce young driver accidents is the provisional licensing system. HB 11 establishes a graduated system whereby a new, young driver must begin his/her progression to "driver-hood" with a learners permit, graduate to a restricted, provisional license, and then, if driving performance has been satisfactory during the provisional period, an unrestricted license is awarded.

Language in HB 11 establishes certain conditions during the provisional stage which include restrictions on nighttime driving, so that driving takes place in less dangerous circumstances. Several states have laws which limit teenagers from operating motor vehicles during late evening or early morning hours. Studies in these states have shown that nighttime restrictions have significantly reduced accidents.

Finally, HB 11 is designed to allow the Department of Public Safety to take advantage of federal legislation (the "High Risk Drivers Act of 1993") which establishes monetary incentives for states that implement programs for young drivers. I believe that passage of HB 11, along with federal support, will help stop the teenage carnage on our highways.

Sectional Analysis HB 11

An Act establishing a provisional drivers license

by Representative Joe Green

Sec. 1 Amends the restriction on the issuance of a drivers license to include a provisional license for drivers between 16 and 18.

Sec. 2 Increases the age of the person that must accompany the permit holder from 19 to 22.

Sec. 3 Establishes the provisional drivers license. Under AS28.15.055, the department may issue a provisional license to an applicant between the ages of 16 and 18 if the applicant has held an instructional permit for at least six months.

AS28.15.057 establishes who is required to hold the provisional license. (a) states that an applicant between 16 and 18 may not be issued an unrestricted drivers license until: (1) they have had an instructional permit for six months; (2) a provisional license for one year. (b) establishes that a driver with a provisional license may not operate a motor vehicle between the hours of 1 a.m. and 5 a.m., except along the most direct route between the drivers home and place of employment.

Sec. 4 Allows the department to suspend, revoke or deny an instructional permit or provisional license for the accumulation of eight or more points in a 12-month period.

Sec. 5 Conforming definitional language which includes "provisional license" under the definition of "drivers license" or "license".

ALASKA STATE LEGISLATURE
HOUSE BILL NO. 11

HISTORY IN THE HOUSE

1997
1/13 Read first time and referred to:
TRA STA

2/7 TRA RPT CS() New Title
5 DP 0 DNP 1 NR 1 AM
1 FN 0 OFN Previous FN

3/7 STA RPT CS() New Title
3 DP 0 DNP 1 NR 0 AM
1 FN 0 OFN Previous FN

3/7 FIN ref. added
4/18 FIN RPT CS() New Title
5 DP 0 DNP 2 NR 0 AM
1 FN 0 OFN Previous FN

5/2 Read second time
CS() Adopted

Amended

5/2 Advanced

5/2 Read third time

Return to second for specific amendment

5/2 PASSED EFD Same or
Yeas 35 Yeas
Nays 3 Nays
Excused 0 Excused
Absent 2 Absent

Intent adopted

Reconsideration
Reconsideration not taken up

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

Intent adopted

5/2 Reported correctly engrossed
Signed by Speaker, to the Senate
Suzi Lowe
Chief Clerk of the House

HISTORY IN THE SENATE

1997
5/5 TRA, STA, FIN
5/6 WAIVED from STA
5/7 JUD referral added

5/6 TRA RPT() CS 1 DP 4 NR 0 BNP 0 AM
New Title Same Title Previous FN
FN OFN To STA

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

SENATE COMMITTEE REPORT

DATE: 5/5/97

FURTHER: ~~State Affairs~~ *Ward*
Finance

DATE TURNED
IN TO OFFICE: 5-6-97

Transportation Committee considered

HOUSE BILL NO. 11

"An Act relating to driver's licensing, and providing for an effective date."

FW

and recommends:

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

Senate Bill:

- same title
- new title
- House Bill:**
- same title
- technical change
- new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>George Welton</i>	✓	<i>Kirk Hallock</i>	✓		
		<i>Lyle & ...</i>	✓		
		<i>...</i>	✓		
CHAIR:		<i>John ... Ward</i>	✓		

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

<i>Dept. of Admin</i>	<i>4/7</i>		✓

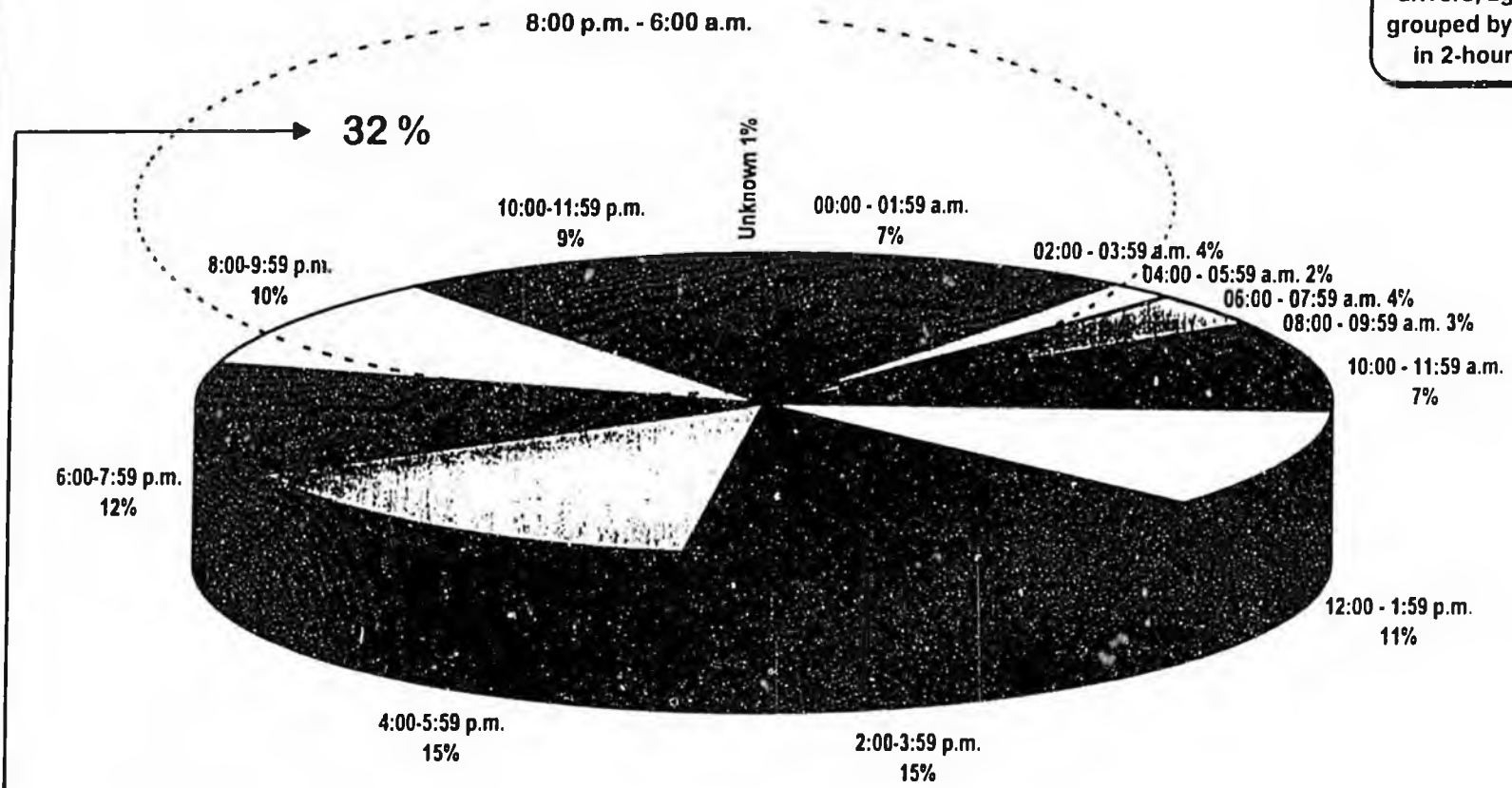
Previous Committee Report(s)

PRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

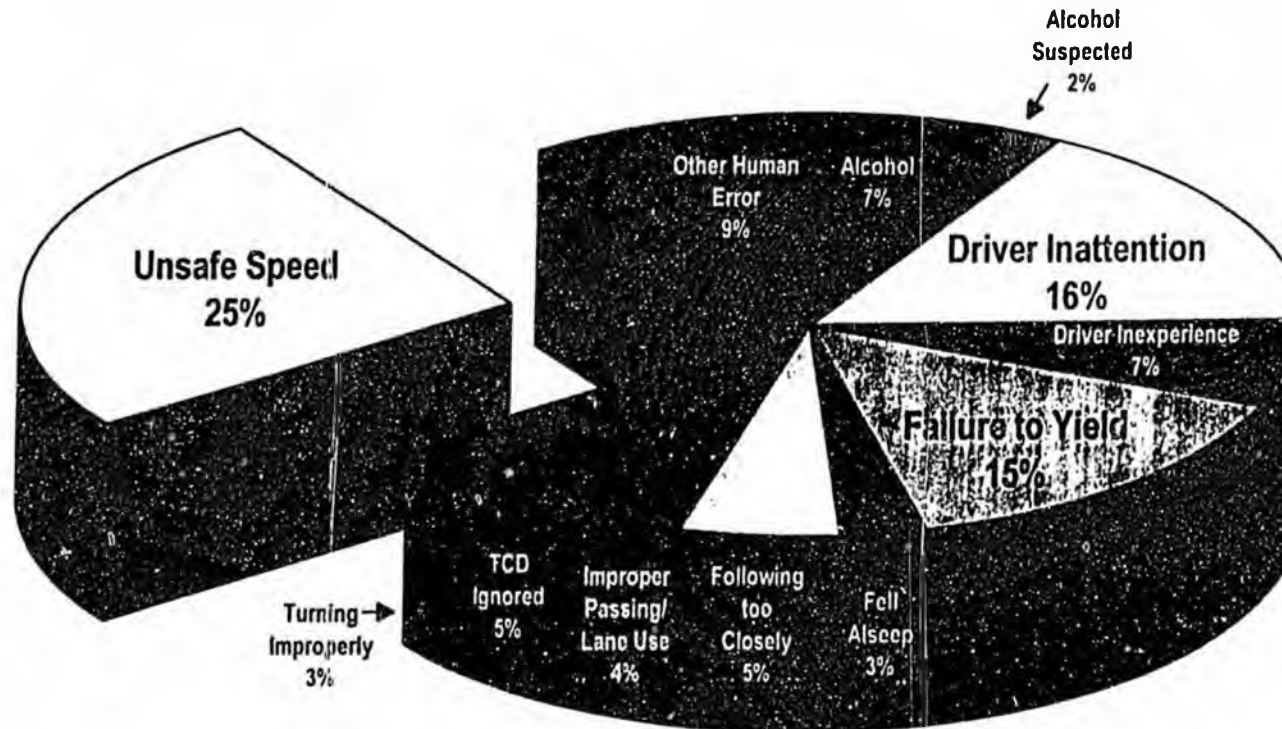
1993 YOUTH DRIVERS INVOLVED IN INJURY AND FATAL CRASHES {AGES: 16 - 20}

DATA REPRESENTED
 Percentage of 1,138
 injury and fatal crash
 drivers, ages 16 to 20,
 grouped by time of day,
 in 2-hour intervals.



32 percent of youth crash drivers were involved in crashes which resulted in injuries and/or fatalities between the hours of 8:00 p.m. and 6:00 a.m.

**1993 HUMAN ERRORS KNOWN TO HAVE CONTRIBUTED TO
INJURY AND FATAL TRAFFIC CRASHES
INVOLVING YOUTH DRIVERS {AGES 16-20}**



DATA REPRESENTED
Percentage of 814 known human errors contributing to injury and fatal crashes which involved a youth driver, age 16-20.

Other Known Factors

There were an additional 145 contributing factors other than human error. Of those other factors, 83 involved roadway conditions. 'Slippery pavement' was cited in 71% (59 of 83) of roadway factors. *SPECIAL NOTE: 'unsafe speed' was cited in combination with 'slippery pavement' 68% of the time (40 of 59 occurrences).*

Year	YOUTH DEATHS				ALCOHOL-RELATED					
	Total Deaths	Youth Deaths	< Diff >	% Total Deaths	Total Alcohol Deaths	Youth Alcohol Deaths	Alcohol < Diff >	Youth % of Total Alcohol Deaths	Youth Death < Diff >	Alcohol % of Youth Deaths
1979	91	32	59	35.2%	69	23	46	33.3%	9	71.9%
1980	88	18	70	20.5%	64	8	56	12.5%	10	44.4%
1981	100	25	75	25.0%	76	23	53	30.3%	2	92.0%
1982	107	9	98	8.4%	54	9	45	16.7%	0	100.0%
1983	150	45	105	30.0%	64	15	49	23.4%	30	33.3%
1984	137	37	100	27.0%	70	14	56	20.0%	23	37.8%
1985	127	30	97	23.6%	69	14	55	20.3%	16	46.7%
1986	101	14	87	13.9%	50	6	44	12.0%	8	42.9%
1987	76	17	59	22.4%	44	7	37	15.9%	10	41.2%
1988	97	22	75	22.7%	48	6	42	12.5%	16	27.3%
1989	84	12	72	14.3%	46	8	38	17.4%	4	66.7%
1990	98	8	90	8.2%	48	3	45	6.3%	5	37.5%
1991	101	16	85	15.8%	50	9	41	18.0%	7	56.3%
1992	108	25	83	23.1%	61	10	51	16.4%	15	40.0%
1993	118	34	84	28.8%	49	10	39	20.4%	24	29.4%
Total	1583	344	1,239	21.7%	862	165	697	19.1%	179	48.0%

YOUTH CRASH STATISTICS ~ 1979 thru 1993

Year	FATAL YOUTH CRASHES				ALCOHOL-RELATED					
	Total Crashes	Youth Crashes	< Diff >	% Total Crashes	Total Alcohol Crashes	Youth Alcohol Crashes	Alcohol < Diff >	Youth % of Total Alcohol Crashes	Youth Crash < Diff >	Alcohol % of Youth Crashes
1979	81	28	53	34.6%	45	19	26	42.2%	9	67.9%
1980	79	15	64	19.0%	43	7	36	16.3%	8	46.7%
1981	90	19	71	21.1%	50	17	33	34.0%	2	89.5%
1982	98	9	89	9.2%	54	9	45	16.7%	0	100.0%
1983	135	40	95	29.6%	53	13	40	24.5%	27	32.5%
1984	123	37	86	30.1%	61	14	47	23.0%	23	37.8%
1985	107	27	80	25.2%	58	12	46	20.7%	15	44.4%
1986	89	14	75	15.7%	46	5	41	10.9%	9	35.7%
1987	70	15	55	21.4%	40	6	34	15.0%	9	40.0%
1988	86	20	66	23.3%	43	6	37	14.0%	14	30.0%
1989	79	11	68	13.9%	44	7	37	15.9%	4	63.6%
1990	92	8	84	8.7%	47	3	44	6.4%	5	37.5%
1991	90	13	77	14.4%	45	7	38	15.6%	6	53.8%
1992	89	21	68	23.6%	50	9	41	18.0%	12	42.9%
1993	88	28	60	31.8%	37	9	28	24.3%	19	32.1%
Total	1,396	305	1,091	21.8%	716	143	573	20.0%	162	46.9%

1993 DRIVERS IN TRAFFIC CRASHES

Age Group	1993 Licensed Drivers	% Of Licensed Drivers	1993 Crash Drivers	% Represented in Total Crashes
< 16	1	0.0%	75	0.3%
16-20	24,310	6.2%	3,257	12.8%
21-25	41,861	10.6%	3,195	12.6%
26-30	48,780	12.4%	2,919	11.5%
31-35	57,756	14.7%	3,123	12.3%
36-40	58,506	14.9%	2,902	11.4%
41-45	50,586	12.8%	2,416	9.5%
46-50	37,471	9.5%	1,622	6.4%
51-55	25,819	6.6%	1,094	4.3%
56-60	17,226	4.4%	733	2.9%
61-65	12,396	3.1%	490	1.9%
66-70	8,979	2.3%	370	1.5%
71 +	10,236	2.6%	439	1.7%
Unknown	4	0.0%	2,740	10.8%
Totals	393,931	100.0%	25,375	100.0%



Adolescent Health Research Updates

Supplement to the Adolescent Health Plan

No 2 — January 1997

Research Updates are periodically distributed from the Alaska Adolescent Health Advisory Committee (AHAC). AHAC believes that effective planning for the health of Alaska's adolescents should have a strong scientific basis. *Alaska's Adolescents: A Plan for the Future*, the 1994 publication by AHAC, was the product of the committee's review of research related to adolescent health at that time. In order to stay current with new information, AHAC continually reviews research dealing with a broad range of adolescent health topics. Summary reports are prepared by AHAC members for distribution to people interested in teen health, especially those who use *Alaska's Adolescents* as a guide for their efforts in the field. Feedback about the usefulness of these updates would be welcomed.

Unintentional Injury Among Adolescents

Injury is crippling our youth. Both national and state statistics report its toll.^{1,2} Nationally, each year more lives are lost to injury than to all combined causes of death during the entire Vietnam war.¹ In Alaska, as in the nation, injury is the leading cause of death among youth aged 10-19.² Young people today die mainly as a result of injury from contact with vehicles, alcohol and firearms.²

What could prevent these deaths? There are many strategies that have been shown to prevent injury deaths. The licensing of all-terrain vehicle (ATV) users, curfews, helmet use, and the enforcement of alcohol laws are examples of effective means of saving lives.⁴

Injuries are considered either intentional (e.g., assaults, homicide, suicide) or unintentional (e.g., motor vehicle & bicycle crashes, drowning). Because subsequent reports will address violence and suicide, this report will focus on unintentional injury. Research on injury prevention demonstrates that unintentional injuries are predictable and preventable. The term "accident" is not used because it implies that the incident is unavoidable.

percent of high school students admit to drinking while driving in the 1995 YRBS. (21)

Costs

While the U.S. Congress continues to limit the Center for Disease Control and Prevention (CDC) budget to study injury, the costs of injury to the U.S. public continue to rise. In Alaska, the cost of each hospital stay for each motorcycle injury patient who was not wearing a helmet is about \$27,000. Motor vehicle patients who were not wearing seat belts cost \$18,000. each.⁹ National figures show that 60% of motorcycle injuries associated with no helmet use are paid by Medicaid.¹ That means that the private decision to take risk comes right out of the public's pocket.¹

Injury Prevention

Approaches to injury prevention have evolved from faulting the victims to applying the public health disease model. The most recent approach involves "the 3 E's" of education/behavior, engineering/technology, and enforcement/legislation. Research has shown that in general, the engineering approach is more effective than the enforcement approach, and that education has been least effective.² Modifying the environment of individuals—through engineering or public policy—seems to be the most successful way to reduce the greatest number of injuries.

Ten years ago Frederick Rivara published a report that outlined the means for preventing injury to children.¹⁰ Although it reflects what we know about effective injury prevention, the methods have not been consistently employed. What seems to be lacking is political will. Actions that can prevent a third of the deaths among children are not being taken.

This section summarizes what is known about prevention strategies for the three major causes of death among teens in Alaska: vehicles, drownings, and guns.

Vehicle Injury

Vehicle injury is the most thoroughly studied as well as the most frequent cause of death. Fortunately, it is very clear that the following approaches all would reduce the incidence of vehicle injury:

- 1) increase in the price of alcohol (tax)⁴
- 2) curfews (that eliminate the dangerous driving hours)⁴
- 3) use of motorcycle helmets⁴
- 4) use of bicycle helmets⁴
- 5) use of seat belts⁴
- 6) decrease in speed limits (the recent national increase is expected to cause at least 4000 more deaths each year)⁴
- 7) decrease of legal blood alcohol level¹¹
- 8) delay of licensing and/or provisional licensing¹¹
- 9) graduated licensing²⁷
- 10) community based, coordinated, comprehensive programs to alter social norms in all age groups.¹¹

Research shows the following does not work:

- 1) driver education programs (which, instead, seem to put inadequately trained teens onto the highways earlier)¹
- 2) alcohol education programs alone, without license suspension following DWI convictions.⁴

In Alaska, the impact of ATV and snowmachine use is also significant. The American Academy of Pediatrics recommends drivers be licensed for snowmachines.¹² The National Committee for Injury Prevention and Control (NCIPC) recommends age and use controls on ATV's.⁴ Alaska injury prevention experts also recommend the use of helmets for snowmobiles and ATV's.²⁰

Drowning

Drownings represent almost 25% of unintentional deaths in Alaska. What would prevent them includes:

- 1) use of personal flotation devices (PFDs)⁴
- 2) laws, with funding for enforcement, requiring the use of PFDs⁴
- 3) blood alcohol laws applied to boating.⁴

Guns

Guns are a major factor in both unintentional and intentional injury. It is difficult to separate the research on violence, guns and unintentional injury because the studies often include suicide, homicide and "accidents". What is clear is that the states that have the most guns, have the most injuries from guns.¹³ Detroit has more gun deaths per capita than Northern Ireland during its worst IRA troubles.¹ According to national researchers, at least half of our homes have firearms.¹⁷ Half of

A New Course for DRIVER'S ED

Teaching teens how to steer and stop was the primary focus of driver training programs for a quarter-century. Today, they emphasize decision-making.

Driver education has long been the butt of many a joke. When Mary Sue Terry campaigned for governor of Virginia a few years ago, she was fond of saying that her hometown was so small that driver ed and sex ed were taught in the same car. And it seems as though every baby boomer can recall a stout football coach screaming into a bullhorn and chasing after the one student who couldn't get his white Ford out of reverse until every orange cone in the high school parking lot had been flattened into the gravel.

These days, driver education is less an object of ridicule, but that's because fewer people are taking it.

At the peak of DE's popularity a generation ago, 14,000 high schools in all but

a few states were teaching more than 2 million student drivers each year. However, its effectiveness wasn't evaluated until 1975, when federal transportation officials undertook a longitudinal study of 15,000 student drivers in DeKalb County, Georgia.

Periodic project reports indicated that not only did DE courses appear to have little positive impact on safety but they might actually be harmful to students, who often became overconfident in their driving ability and exercised less caution. Parents of those taking driver education also tended to spend less time practicing with their children and were more likely to let them drive at night—a key factor in accidents.

Given this evidence, as well as the

expense associated with the programs, DE was an easy target when states went looking to trim budgets during the early-1980s recession. Since then, nearly 20 states have removed DE from licensing requirements, and about half of all school districts dropped the courses after losing state funding for them. Many of those that still require driver education have modified it—keeping classroom instruction, for instance, while reducing or eliminating on-road training—or left it up to the private sector to offer courses.

But pointing to recent statistics that show the overwhelming cause of teen accidents is driver error, the National Highway Traffic Safety Administration, the Centers for Disease Control and Prevention, and the AAA Foundation for Traffic Safety have begun a crusade to resurrect driver education. "When you realize that 40 percent of 16-year-old males have been involved in police-reported crashes, it is obvious that something needs to be done," says Stephanie Faul of the FTS.

Even if that figure seems disputable, citizens and policy makers alike are well aware that motor vehicle crashes are the leading cause of death for 15- to 20-year-olds, and few would disagree with Faul's conclusion. Of course, there are no simple answers to the problem. But the current angle of attack focuses on implementing driver training courses that place as much emphasis on reducing risky behavior as on perfecting parallel parking.

The first National Conference on High School Driver Education, which convened in 1949, recommended that students receive 30 hours of classroom learning and six hours of driving instruction. This formula is still the norm across the nation, even though



Driving simulators, with roadways shown on a movie screen, once taught to operate a car. But that's only one facet of safe driving.

safety experts say nearly 5,000 miles of driving experience are necessary for a student to become an "average" driver. And the textbooks used in DE courses—typically a summary of the state's driving laws, not a handbook for safer driving—have come under fire as well.

"DE has had its problems," acknowledges Allen Robinson, president of the American Driver and Traffic Safety Education Association. "The way it was taught was not done correctly." Indeed, learning

Although his bill was "dismissed" at the subcommittee level, Haskins is determined to rekindle the issue next year.

In Nebraska, state Senator LaVon Crosby proposed a study of driver safety and DE after a string of accidents last spring resulted in teen fatalities. DE is not mandatory or publicly funded in Nebraska, so students are responsible for paying for a course if they want the training. "Teens are not getting the right kind of education about driving," Crosby says, "and driver's

keep an unrestricted license, a driver must be 17 and not cause an accident or be ticketed for a moving violation for at least six months. "This makes Michigan the leader in the nation in comprehensive driver's training," declared Representative Dan Gustafson, as the bill he sponsored was signed into law.

Kentucky, which began a graduated licensing program October 1, requires all new drivers to practice with a permit for six months, up from 30 days. Permit-holders can only drive when accompanied by a licensed adult over 21, and they are banned from driving between midnight and 6 a.m., except to or from work or school or in emergencies. The new law also has a zero-tolerance provision related to blood-alcohol levels and requires all students to take a four-hour safety course or high school DE by age 18.

Several states have seen marked results from graduated licensing laws. California, Oregon and Maryland all have reported decreases of between 5 and 16 percent in crashes involving teens after their programs began. Still, the new approach is not without its detractors.

Last year, Virginia's General Assembly reviewed a study of graduated licensing in other states. The report concluded that such programs were effective in reducing teen accidents, and recommended a minimal crash-free period before a full license is issued. However, Richard Holcomb, the Department of Motor Vehicles commissioner, strongly opposed graduated licensing as an intrusion upon parents' right to regulate their own children. The graduated licensing bill that lawmakers passed this spring became law without the governor's signature.

In a separate effort to curb teen crashes, Virginia lowered the minimum age for a driving permit from 15 years, eight months to 15. The idea was to give students more time to practice driving with adult supervision before they obtain their full licenses. But while acknowledging the good intentions of the measure, some question why the additional hands-on-the-wheel experience needs to come at the younger end of the driver-training spectrum, when students are less mature.

George Hensel, owner of the California Driving School, believes that raising the age for unrestricted licenses—as Michigan did—is the most important step in improving teen driving safety. In fact, he would not allow his daughter to get her license until she turned 15. □

ABOUT A DOZEN STATES HAVE GRADUATED LICENSING PROGRAMS, WHICH EXTEND THE TIME IT TAKES TO QUALIFY FOR FULL DRIVING PRIVILEGES.

how to operate a car is only one facet of overall training; addressing teenagers' inexperience, inattention and sense of invincibility is now widely considered to be an even more fundamental issue.

Michael F. Smith, a research psychologist at the NHTSA who authored a 1994 report for Congress about DE, notes that teens are more likely than other drivers to speed, run red lights, make illegal turns and tailgate. They also perceive that they have less to lose by engaging in reckless behavior and more to gain in the way of peer approval. He believes that DE should focus on two objectives: improving the skills teens use to estimate risk and reducing teens' willingness to take risks.

The AAA Foundation for Traffic Safety, which aims to "reinvent" DE, has distributed a model curriculum outline to lawmakers and educators. Recommended reforms include less emphasis on mechanics such as turning and traffic laws. Instead, safety issues—identifying a safe distance between cars, road hazards and vehicle defects, as well as speeding and driving while intoxicated—are given equal weight.

Although states have yet to make sweeping revisits to driver education, legislators are showing increased interest in providing better ways to introduce young drivers to the skill. At least 14 states considered DE-related bills this year.

A measure introduced by state Representative Terry Haskins of South Carolina, for example, would have required 16-year-olds to take a DE course in order to obtain a license, as is the case in half of the states. But "there was not enough of a feeling that this is something we should do," he says.

ed is a big part of understanding safety."

The most interesting legislative activity occurred this fall when Michigan repealed its requirement that public schools provide DE classes. But the move was not as against the grain as it might seem. While achieving their goal of reducing education mandates, lawmakers changed the letter but not the spirit of the state's driver training law: Students must still take lessons in order to obtain a license.

Starting next April, schools that offer the service will get an \$80-per-driver reimbursement from the state, but are responsible for making up the difference—roughly \$100—until 1998. At that point, while local schools must match the state's contribution, they can charge students a fee to cover the remaining cost of the program. In places that scrap DE, students can receive an \$80 voucher from the state to offset a portion of the cost of private driver training.

In the same bill, Michigan followed the lead of about a dozen other states that have implemented "graduated" licensing programs, which extend the amount of time it takes to qualify for full driving privileges. Michigan's three-tier process begins with a learner's permit for those at least 14 years, nine months old. They must take a training course with road instruction, pass written and vision exams, and cannot drive without an adult.

At age 16, a restricted license can be issued after students complete at least 50 hours of driving with a parent (including 10 hours at night) and pass a road test. Driving unaccompanied between midnight and 5 a.m. unless commuting to or from a job is prohibited.

Finally—and most notably—to get and

Bill may pull teens off road

By DON KIRKMAN

Staffer Howard News Service

WASHINGTON — Congress is considering a \$100 million program that would make it tougher for teenagers to get driver's licenses and encourage the elderly to restrict their driving or give up their licenses.

Already passed by the Senate, legislation that imposes restraints on high-risk drivers was scrutinized Thursday by the House surface transportation subcommittee.

The bill's No. 1 target is teen-agers, particularly those who drink and drive.

"The statistics are chilling," said Rep. Frank Wolf, D-Va., the bill's sponsor in the House. "Although teen-agers comprise only 7 percent of all licensed drivers, they account for nearly 15 percent of all traffic fatalities."

Please see Back Page, **DRIVING**

DRIVING: Tougher rules for teens

Continued from Page A-1

Approximately 8,000 people were killed by teen-age drivers last year, Wolf said, and one-quarter of those deaths were caused by teen-age drivers who were drunk or alcohol-impaired.

National Transportation Safety Board chairman Carl Vogt said one of the reasons teen-age drivers cause an unusually large number of highway deaths is that young people are easily impaired by small amounts of alcohol.

Drivers aged 16 to 20 who have small amounts of alcohol in their bloodstreams are six times more likely to cause fatal traffic accidents than adults, Vogt said.

Rep. Floyd Flake, D-N.Y., one of the bill's supporters, said researchers have determined that teen-age drivers whose blood alcohol level is 0.08 percent increase their chances of having a fatal accident 400-fold.

The legislation would provide \$100 million to state safety and licensing agen-

cies, beginning in 1995, if the states match the federal funds and carry out the program's initiatives.

To reduce high-risk teen-age driving, the legislation calls for states to implement a three-stage driver's license procedure.

The first stage would provide an "instructional" license that requires teen-age drivers to be accompanied by someone with an unrestricted license. Next, teen-agers would receive a "provisional" license after a written examination and road test. An unrestricted license would be granted a year later if the teen-ager has no traffic tickets or chargeable accidents.

States also would be required to make it illegal for people under age 21 to drive if their blood alcohol content is at 0.02 percent or higher, establish minimum fines of \$500 for people convicted of selling alcohol to minors, and mandate a six-month driver's license suspension for anyone under age 21 convicted of drunken driving.

4 hurt in car wreck remain hospitalized

17-year-old killed in weekend head-on collision on Sterling Highway

The Associated Press

KENAI — Four people seriously injured in a weekend accident that killed one of the drivers remained hospitalized Tuesday.

Matthew J. Reilly, 18, of Kenai was still in critical condition at Providence Alaska Medical Center, a spokeswoman said. His brother, Keegan R. Reilly, 15, of Kasilof, and another fellow passenger, Lucas F. Spruill, 19, of Kasilof, were upgraded to serious condition.

Harry R. Geron, 74, of Anchorage, a passenger in the second vehicle, was upgraded to satisfactory condition at Providence, a hospital spokeswoman said.

Thomas K. Davis, 17, of Kasilof was killed in the head-on collision Sunday evening on the Sterling Highway.

Davis was pronounced dead at the scene.

The teenagers were returning home from an 'after-prom' party in the Cooper Landing area when the accident occurred.

The teenagers were returning home from an "after-prom" party in the Cooper Landing area when the accident occurred, said Alaska State Trooper Robert Clark, who is investigating the accident.

The station wagon Davis was driving drifted across

the center line and into the path of an oncoming pickup truck, troopers said.

The pickup's driver, Joseph F. Connors, 54, of Anchorage, tried to avoid the other car but was unable to prevent the collision, troopers said. He was

treated and released at Central Peninsula General Hospital at Soldotna.

Alcohol is not believed to have been a contributing factor, but the cause of the crash remains under investigation, Clark said.

Chad Benson, 17, of Sterling and Levi Reilly, 17, of Kasilof, who had been following the station wagon when the collision occurred, dragged all six victims from the wreckage moments before both vehicles burst into flames.

"Troopers told me all six would have been dead if they hadn't pulled them out," said Benson's mother, Marlene Byerly. "They're having a real hard time right now. You don't feel much like a hero after you have a friend die in your arms."

Clark, the investigating trooper, was Davis' baseball coach.

"It's pretty tough when you pull the blanket off the kid's face and you know him," Clark said.

METRO

ANCHORAGE DAILY NEWS

MONDAY, April 22, 1996

STATE NEWS

Teen killed in early morning crash

A 16-year-old boy died early Sunday morning when the car he was riding in collided with another vehicle at C Street and 15th Avenue. Gunthar M. Burt was pronounced dead at the scene after the 1983 Oldsmobile he was riding in collided with a vehicle driven by Jose Elias, 22, of Anchorage, according to the Anchorage Police Department. Burt was riding in the back seat of a car driven by Casey Weiss, 17, of Anchorage as the vehicle headed east on 15th, police said. Elias was traveling south on C Street in the right hand lane when his car collided with Weiss' vehicle about 2:30 a.m., police said. Elias and Weiss were taken to Alaska Regional Hospital, police said. Weiss was in stable condition Sunday evening. Elias was treated and released, a hospital spokesman said.

Eagle River man dies in wreck

An Eagle River man died near Cooper Landing Saturday afternoon when the motorcycle he was riding crossed the center line of the Sterling Highway and collided with an oncoming tractor-trailer truck, according to the Alaska State Troopers. Terry Lynn Collins, 40, died at the scene about 3:30 p.m. near a curve at Mile 50 of the highway, troopers said. Collins' Harley Davidson collided with a westbound tractor-trailer truck driven by Gary L. Spruill, 45, of Kasilof, troopers said. Collins and his motorcycle were thrown into the eastbound lane and struck by a tractor-trailer truck driven by Charles Ashley, 23, of Soldotna. Ashley had been following the eastbound Collins. The truck Ashley was driving overturned after being sideswiped by Spruill's truck, which veered into the eastbound lane after colliding with the motorcycle, according to troopers. The truck operated by Spruill then collided with a pickup driven by Marvin Husek, 43, of Anchorage, troopers said. Husek had been behind Ashley's truck, troopers said. Spruill was taken to the Soldotna hospital for treatment, where he was listed in stable condition Sunday evening. Husek drove the pickup from the scene, troopers said.

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challenged, and justice will prevail.
"If it's my fault, I'm willing to take the consequences," she said. "I was prepared to go to the mat. I called the superintendent. I was going to move them, home school or whatever."
Principal Lyons declined to comment.

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ects on the building, which was completed in 1983.

Meanwhile, another Project '80s building, the Alaska Center for the Performing Arts, roughly broke even last year, said the center's president, Von Roberts.

The arts center ran on a \$2 million budget last year, with roughly half the money coming from city taxpayers, Roberts said. The rest comes mainly from corporate and individual donations and ticket sales.

All told, the arts center took in \$2.35 million last year, Roberts said. Most of the surplus went to cover maintenance projects on the facilities, she added, though about \$10,000 is expected to land in a reserve fund for future maintenance.

"We don't shoot to make money," Roberts said. "If we have a surplus, generally that's funded back into maintenance projects and events."

Bill seeks tougher driver's ed

The Associated Press

JUNEAU — Teen drivers would spend more time on probation before earning their full licenses under legislation approved in the state House to ease new motorists onto the highways.

The bill's sponsor, Rep. Joe Green, R-Anchorage, said the plan would establish a gradual licensing system that would require young drivers to work their way up to adult driving privileges.

"As they learn and become more proficient, the restrictions are reduced until they obtain a full driver's license," Green said.

The proposal would set a curfew prohibiting drivers younger than 18 from operating a vehicle between 1 a.m. and 5 a.m. Curfew exemptions would be made for teenagers driving to and from work.



Please see Page E-3, DRIVERS

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nd disabled.

Costello, a large, amiable man with collar-length hair and a mustache, has been working on Route 12 only as long as his bus. He got the route in part, he said, because other drivers quit the transit department.

"We don't have a lot of good morale in the bus barn," he said.

Costello is originally from Butte, Mont. He first came north in 1971 to work in the Cook Inlet fishery. During the pipeline boom of the mid-1970s, he began working as a Teamster, often out of the Fairbanks hall, retiring after 20 years. He took up bus driving five years ago.

"It's not as easy a job as it looks," he said. "Well, you drive in Anchorage, you know how it is. Nobody wants to be behind a bus."

Costello lives in the Chugiak area. Three days a week, he clocks in at 6:49 a.m., out at 1:30 p.m., in again at 4:15 p.m. and out at 7:34 p.m. He works a longer fourth day to reach 40 hours. The split shifts allow the people in charge of the system to add buses during peaks in the

passenger load, but they make for long days. Since 1991, new drivers have received a lower hourly wage than their predecessors.

"A lot of people think us city workers are cutting a fat hog," Costello said. "I hear this bus around for \$33,000 a year."

The transit department hopes to have all 18 of its buses replaced in two years and to start a shelter-building program this summer. But the things that local taxes pay for, like more frequent runs, are less likely. Until the mayor and Assembly move public transit up their priority lists, as they should, not many people are going to get to hear the buses talk.

They talk?

"Wait a minute," Costello said as I got off the bus. He reached up to an overhead console and pushed a button.

"Have a nice day," the bus said.

Mike Doogan's opinion column appears in the Daily News each Tuesday, Friday and Sunday. His e-mail address is: mdoogan@pop.adn.com.

Street closure
 blocks of C Street will be closed to through traffic the weekend while repairs are made to a water main. All inbound lanes of C Street between 34th and 40th avenues will be closed from 8 p.m. today until early morning. A detour will direct traffic on C Street around the project, city officials said. C Street will be reduced to one way traffic between 34th and 40th avenues to accommodate traffic. The section of C Street that broke has been repaired and water has been added to serve houses and homes in the area. No one will be allowed to use the water while the repairs are made, officials

Daily News staff reports

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AIRPORT
ALASKA
POSALS
SERVICES
 The services of a notary to prepare a new will, estimated three hour process will be discussed in Advisory Circular

March 15, 1996
 Scope of work
 by manager by

the expense report Thursday, but she said the cost of Anchorage had the highest at \$13,930.

DRIVERS: Bill seeks probation for teens

Continued from Page B-1

In 1994, 16- to 20-year-olds made up 6.2 percent of the total drivers in Alaska but accounted for 12.9 percent of the car accidents in the state, according to the Alaska Highway Safety Planning Agency. That group also accounted for 29 percent of the state's fatal crashes.

The measure would still allow teens as young as 14 and 15 to get instruction permits, but they would have to drive

with another motorist at least 25 years old, instead of 21 as the current law requires.

At age 16, they would be eligible for a provisional driver's license so long as they have held a learner's permit for at least six months. By age 18, they could apply for a full driver's license after holding a provisional license for at least a year.

The bill now goes on for Senate consideration.

Anchorage Daily News

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Gerald E. Grilly, Publisher, 1984—1993
Katherine Fanning, Editor and Publisher, 1971—1983
Lawrence Fanning, Editor and Publisher, 1967—1971
Founded in 1946 by Norman C. Brown

Young drivers

Let's start them off slowly

State Rep. Joe Green, R-Anchorage, wants to make it harder for teenagers to win full driving privileges. More power to him. The graduated licensing process he has in mind should help make Alaska roads safer for both youths and adults.

Rep. Green's bill is grounded in a reality that makes every parent of a teen worry. Young drivers simply have more accidents.

In Alaska, drivers age 20 and under are only 6.2 percent of the driving population, but they account for twice that number of accidents — 12.8 percent. (That's according to 1993 data from the Alaska Highway Safety Planning Agency.)

No doubt Rep. Green's idea will prove unpopular with Alaska youths. They'll naturally resent being barred from late night driving or having to maintain a clean record before getting full driving privileges.

At 16, a driver's license is a ticket to freedom, a chance to exercise new-found independence, to feel the power of sitting behind the wheel.

Unfortunately, that driver's license is often a ticket to something else — the hospital, or worse. And when young drivers make misjudgments, they aren't the only ones who suffer the consequences. Often their fellow passengers or other drivers wind up hurt or dead.

Contrary to what some youths may think, driving is not a right, it's a privilege — a privilege that carries a heavy responsibility. Creating a graduated



Frontiersman

Steve Krohl
Publisher

Vicki Naegels
Managing Editor

Growing with the Valley since 1947

Prom night should be safe and fun

Recently, Houston High students witnessed a graphic illustration of what can happen when prom night (or any other night) revelry puts an intoxicated driver behind the wheel. Thankfully, the illustration was a mock accident, not the real thing.

This weekend, more local schools will hold their annual proms, and, in a few short weeks, graduation celebrations will mark another rite of passage. Unfortunately, both occasions tend to be marked with use of alcohol or other drugs by students, graduates and others.

Prom night, graduation and all such occasions should be full of memories that teens can carry with them forever. But they should be memories of joy and fun, not grief and terror. Nor should they be so blurred by controlled substances that they are only shadowy images of unrecalled acts.

Even though alcohol was not suspected in an April 28 crash that killed a Kasilof teen, Thomas K. Davis and his friends were returning from an after-prom party when Davis' car crossed the center line about 7 a.m. and drifted into the path of an oncoming vehicle on the Sterling Highway. Five others, including three of Davis' friends, were injured in the mishap. According to the Peninsula Clarion, all three teens have serious injuries, including back and head injuries.

Unfortunately, even this stark reminder of life's frailty will fail to sober some teens.

May each teen enjoy the end-of-the-school-year merriment safely, sanely and soberly. The rest of your lives are ahead of you.

ALASKA TRUCKING ASSOCIATION, INC.

3443 Minnesota Drive • Anchorage, Alaska 99503 • PHONE (907) 276-1149 • FAX (907) 274-1946

February 19, 1997

TO: Members of the 20th Alaska Legislature:

FM: Frank Dillon, Executive Director, Alaska Trucking Association

RE: Support for House Bill 11

Members of the Alaska Trucking Association encourage your support of House Bill 11. House Bill 11 strengthens the requirements necessary to obtain a motor vehicle operator's license. As an organization that represents thousands of professional driver's throughout Alaska, we recognize a need to have properly trained young driver's on our roads. We also recognize that driver's between the ages 16 and 20 are involved in a disproportionate number of serious accidents resulting in many deaths and injuries. We believe that any prudent steps that enhance driver's training and skill for young driver's, and in fact all driver's, should be encouraged. Highway accidents are not a natural occurrence and dying in an automobile or motor vehicle accident is not a natural cause of death. Please support House Bill 11. We thank you and encourage its speedy passage.



Telephone: (907) 522-6233
FAX: (907) 522-6234



Mothers Against Drunk Driving

Anchorage Chapter
615 East 82nd Avenue, Ste. B 1
Anchorage, AK 99518-3157

January 30, 1997

Representative Joe Green
State Capitol Building
Juneau, Alaska 99801

Dear Representative Green:

On behalf of MADD - Anchorage's Board of Directors, staff and general membership, I write to express strong support for HB11. As we understand it, this bill would institute a graduated driver's licensing procedure for teenage applicants.

We are encouraged by the increased age of 22 requirement for the accompanying licensed instructor, although we feel age 25 is very prudent.

Again, you have our support for HB 11.

Sincerely,

Marti Greeson
Executive Director

Representative Joe Green
Alaska State Legislature
Juneau, AK 99801-1182

February 04, 1997

Dear Representative Green:



On behalf of the Juneau Mayor's Task Force on Youth, we would like to express our support for HB 11 Licensing Requirements for Drivers. We supports a provisional licensing system as a way to reduce young driver accidents and prevent injury and death among teenage drivers in Alaska.

The Mayor's Task Force on Youth is concerned with the health and safety of young people in Juneau. We support programs, activities and public policy which support youth in making a healthy transition to adulthood.

The Mayor's Task Force on Youth agrees with the legislation proposing a graduated licensing system allowing a 14 year old to apply for a learners permit while increasing the age of the person accompanying the permittee. This will provide an opportunity for young drivers to learns from more experienced and hopefully more responsible drivers. We support allowing youth to get a provisional license at age 16 with restrictions on nighttime driving hours between 1 am and 5 am. We appreciate the exemption made for driving to and from work. At age 17 youth can progress to an unrestricted license if their driving performance has been satisfactory.

We do not feel this legislation will unduly limit the rights and freedom of young drivers, but rather provides a chance for them to gradually learn to be responsible drivers. This legislation will not significantly affect those youth who are already responsible drivers, instead it will support their efforts to drive carefully and responsibly.

We hope this bill will be supported by the legislature and be enacted by the Department of Public Safety as a way to reduce injuries and death to young drivers.

Thank you for introducing and supporting this legislation. If you need any additional support please do not hesitate to call Dan Fink at 463-5850 or Ron Gleason at 463-1900.

Sincerely,

Ron Gleason
Co-Facilitator,
Mayor's Task Force on Youth

Dan Fink
Co-Facilitator,
Mayor's Task Force on Youth

John L. George & Associates
3328 Lutz Cove Road
Juneau, Alaska 99801
Tel 907 789-0172 Fax 907 789-6964

February 4, 1997

The Honorable Joe Green
House of Representatives
State Capitol
Juneau, Alaska 99811

Reference: House Bill 11

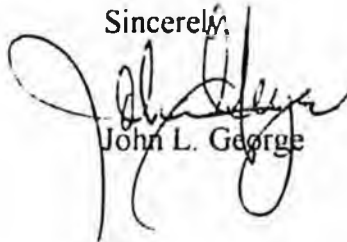
Dear Representative Green

On behalf of the National Association of Independent Insurers, a property and casualty insurance trade association, I want to thank you for introducing HB 11. The NAII believes that passage of HB 11 will result in reduced accident rates for young inexperienced drivers and will dramatically impact the frequency of late night and early morning accidents which statistically are the most serious and often fatal accidents for teenagers.

By targeting the inexperienced youthful drivers, this bill assures that each of them learns to drive with proper supervision and mature guidance. By teaching proper respect and responsibility to youthful drivers as they are just learning to drive, the stage is set for a lifetime of responsible motor vehicle operation. Legislation that serves to protect young drivers and instills good lifetime driving skills is always worthwhile.

NAII urges passage of HB 11. We believe that it will have a large positive impact on accident rates and accident severity for youthful drivers.

Sincerely,



John L. George



Telephone: (907) 522-6233
FAX: (907) 522-6234

Mothers Against Drunk Driving

Anchorage Chapter
615 East 82nd Avenue, Ste. B 1
Anchorage, AK 99518-3157

March 18, 1997

Representative Gene Therriault
House of Representatives
State Capitol
Room 511
Juneau, AK 99801-1182

Dear Representative Therriault:

I am writing in support of House Bill 11 which establishes a graduated licensing system in Alaska.

Each year, 16 and 17-year old drivers are involved in more than twice the average number of crashes per mile driven as are experienced adult drivers. These crashes occur most frequently between midnight and 5:00 a.m. Studies show that although only 2 percent of the miles driven by 16 year olds occurs in these hours, 17 percent of their fatal crashes occurred in that five-hour period. Also, novice driving between 9:00 p.m. and 6:00 a.m. account for 16 percent of their miles driven, but 43 percent of their fatal crashes.¹

One way to reduce this disproportionate involvement is through the use of provisional licenses for novice drivers. The provisional license serves as a tool to "ease" young drivers into gaining driving experience on the road. With restrictions mandated under graduated drivers license, the novice driver would gradually gain driving skills through education, driving during lower-risk hours, or with supervision.

¹National Highway Traffic Safety Administration "Provisional Licensing or New Driver Entry System."

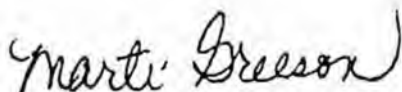
When young drivers do not have the option to drive during the high-risk hours under high-risk conditions, their driving experience is gained during the lower-risk hours, with fewer deaths as a result.

Every effort of provisional licensing programs are encouraging; states which place certain restrictions on driver's licenses show a sharp decline in the number of crashes and fatal crashes involving 16 year olds during restricted hours: Pennsylvania (69%); New York (62%); Maryland (40%); and Louisiana (25%).²

MADD advocates that all states adopt such measures as a means of further reducing youthful crash involvement.

On behalf of MADD Anchorage's staff, Board of Directors and membership, I write to express strong support for House Bill 11 and ask that you present this bill for action in the Finance Committee and assist in moving it forward.

Sincerely,



Marti Greeson
Executive Director

²Insurance Institute for Highway Safety. Teenage Drivers. 1984.

March 19, 1997

Representative Gene Therriault
Alaska House of Representatives
State Capitol, Room 511
Juneau, Alaska 99801-1182

Dear Representative Therriault,

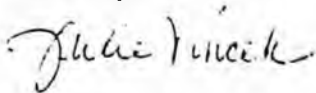
I am writing you to express my strong support for House Bill 11 which establishes a graduated licensing system in Alaska.

There is a great deal of supportive data telling our nation and more specifically our community that inexperienced teenage drivers operating their vehicles during high risk early hours is resulting in too many deaths and serious injuries.

There is no doubt that this bill must be passed now! Let's follow the example of other states who are standing up and demanding ways to reduce senseless, preventable auto deaths and injuries among youth.

I ask that you present this bill for action in the Finance Committee and assist in moving it forward! Thank you and good luck!

Sincerely,



Julie Vincek
12203 Woodward Dr.
Anchorage, Ak 99516
907-345-3130