

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9836 HOUSE JUDICIARY

ADN March 21 99

Youth Court opens son's eyes

Last summer, I almost lost my son. Not to an accident or drugs or disease — the influence of friends proved a much stronger temptation.

After many phone calls and a little research, a door opened for us. It led to Youth Court, and now, nearly nine months later, my son has returned. We're discovering things about each other we never knew before; I'm no longer the enemy. And that group of friends is a thing of the past. They're still around, but finally my son has learned that no one is worth destroying his image of himself and his connection with his family.

Thank you to all the people who work to keep Youth Court alive and available to our community. As my son's grades and attitude continue to improve, I can only marvel at that door that opened up hope for us.

Please help keep that door open for our youth and their families. Please, support your local Youth Court and House Bill 28, which provides for its funding.

— Candy Sims
Anchorage

Matt Moon
1380 Otter Street
Anchorage, AK 99504-2656

To: THE LEGISLATURE OF THE STATE OF ALASKA
From: MATT MOON, BOARD OF DIRECTORS - AYC, INC.
Date: FEBRUARY 19TH, 1999
Subject: HOUSE BILL #28

This letter is to provide a personal opinion from Anchorage Youth Court member, Matt Moon, for advocacy of House Bill #28. It only represents the opinion and record of Matt Moon, and not of the Bar Association of Anchorage Youth Court or Anchorage Youth Court, Inc.

In March of 1989, a group of youths from Anchorage had an idea. This idea seemed to have so much potential that they conferred with adults from the community to receive insight on this idea. And in March of 1989, that idea became a reality, and very unique reality it was, and still is.

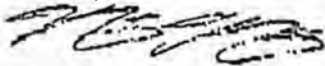
Now that we are closing in on the tenth year of this reality, Anchorage Youth Court has grown, prospered, and has been blessed this past decade. This span of time has been a decade of law education, a decade of providing youth to benefit themselves as well as their municipality, a decade of giving our peers a second chance, and most importantly, a decade of making a difference.

We, as a bar association and a corporation, are nearing this great tenth anniversary. We are on the right track and headed towards more prosperous times for this organization. The bar, the corporation, and the staff members have been working countless hours to make this organization be better than it is. And I thank them and give an infinite amount of gratitude towards them. Like any non-profit organization, we depend on funds to keep growing and to keep helping our community. Like one of life's rules, if something stops growing, it will eventually fall. But I believe with House Bill #28 that through this funding, Anchorage Youth Court, and Youth Courts around the state can keep on growing. House Bill #28 is an investment in towards the rehabilitation of juvenile defendant, an investment towards the community, the state, and most importantly, the young people who gain much self-confidence, many lifelong skills, and a sense of self-respect that will help them to do well in the prime of their lives.

House Bill #28 is an investment that is 100% sure to bring back profit to the whole state.

Thank you and best regards.

Sincerely,



Matt Moon
Board of Directors, AYC Inc.
Constitution Committee, Chairman
Education Committee, Vice-Chairman

To Whom it may concern:

I am in support of the Youth Court program in the Wasilla area. I also feel every community would benefit from such a program.

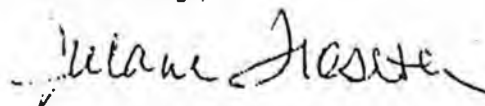
My daughter is now in the program but was first acquainted with the program being on the "wrong" side of the law. I really feel the program works because of the reaction my daughter had. She was scared and learned if not for Youth Court, consequences could and would have been a lot worse. She gladly and quickly finished her sentence. She felt lucky to be given a chance and now knows it's not fun or cool to do something against the law.

She now is going through the shadowing part of the program and is enjoying seeing and learning the whole process.

I feel she has a new respect for authority and the law. She also knows if there were to be another incident, she would not be so lucky.

I hope this program continues because it gives kids a second chance if they happen to goof up in life. Many need only a second chance to realize right from wrong. I also think it is good for those interested in law and gives them insight into it.

Sincerely,



Julane Troseth
2851 Marianns Pl.
Wasilla, AK 99654

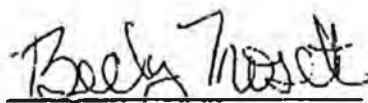
To Whom This May Concern;

Being in Youth Court has changed my ways and views on society. When I first came into Youth Court it seemed like it was not right for me. I felt uncomfortable. But then the other Youth Court members helped me out and showed me what to do and if I was doing it right. They started making me feel comfortable and welcome and if I had any questions they were more than happy to help me out. To me, Youth Court is like a family reaching out to others. Now I'm a part of that family and I enjoy every moment of it.

What I do in Youth Court reflects on the way I act towards others. I know what it is like to be on the other end and I let people know that it really changed me and that I'm now a part of it. There are people who I know I'll see in there someday and I let them know what can happen to them. Some don't take me seriously and some do.

Thanks to Youth Court, I have become a great speaker. I'm not nervous at all when I get up to speak and I've become confident on what I say. I take Youth Court very seriously and respect that it is highly confidential. My friends are supportive of me. I think from seeing a variety of cases come through it has made me realize that it is a serious problem it has made me more mature on the subject.

Sincerely,

A handwritten signature in cursive script that reads "Becky Troseth". The signature is written in dark ink and is positioned above a horizontal line.

Becky Troseth

Dear Representative Croft,
3-23-99

I am a junior at the Juneau Douglas High School and I serve as the Youth Court Coordinator at my school. Students may choose Youth Court instead of suspension.

I am gaining a lot from Youth Court. I've learned office skills, communication skills and organization skills. My job is to help recruit student jurors and attorneys and to coordinate orientations and cases.

I think this is way better than suspension. Youth Court provides actual punishment, unlike suspension which is just a vacation.

I support your bill, HB28, because it would obviously help keep Youth Court going. It's really hard when it's on a volunteer basis. With grant monies, more places and schools could offer this positive alternative.

Sincerely,

Brandy Pavitt 

Youth Court Assistant

Dear Representative Eric Croft,

I joined Anchorage Youth Court in January of 1998 and have been an active member ever since my swearing-in in January. I'm currently holding the position of Secretary of the Anchorage Youth Court Bar Association. From a year long of my membership to Anchorage Youth Court, I have gained many qualities that will help me throughout my future. One of the major attributes that I have gained from Anchorage Youth Court is confidence. I was always nervous to stand in front of the class and present. I would anxiously wait for my turn with little butterflies in my stomach. And these symptoms made me worry about my future career plan. I really want to be a lawyer and defend and represent the just side. But in order to accomplish that, I would have to prove my case in front of people. But with my fear of public speaking, that goal just seemed like it was getting farther and farther away from me. I wanted to join Anchorage Youth Court because I was interested in law. And when I did, I was worried about taking a case. I talk too fast and I talk softly. I didn't want to embarrass myself in front of people I didn't even know. Then with cases, I earned confidence. Our legal advisors would always encourage me by not criticizing but rather pointing out the better part of my presentation. With immense support like those, students can't help but mature on their skills to speak. All I needed was confidence and I gained that from Anchorage Youth Court.

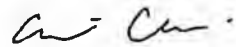
I was also chosen to be the lead prosecutor for trial. Trials are scarce in Anchorage YOUTH Court. I was very pleased. Trials gave me the opportunity to learn about court firsthand. I had to experience in order to learn. It was so much more stimulating than learning facts from the book. I learned to keep my composure in the court room. How to be professional. How not to be intimidated. I learned to prepare for the trial. I had to travel to Eagle River to investigate as the prosecution has the burden of proof. I learned to make opening and closing arguments. I learned to pick out the jurors that I wanted. It was such an exhilarating experience. That one month that I had involved with the trial was the most memorable part of my summer.

I learned many skills, practical skills and gained legal knowledge from Youth Court that many others are not offered in other states. My experience with Youth Court has been far more than anything I ever thought of when I joined last January. I wouldn't even be involved with half the things that I am right now if it wasn't for Youth Court.

AS my current position as the Secretary of the Bar Association, I learn how the executive Board operates and as my position as Board of Director, I learn how a board for nonprofit organization has to operate. There are so many options that Anchorage Youth Court offers. Those who are into managing and with executive skills has many positions to be fulfilled. Those only interested in legal perspective of Youth Court can concentrate only on the legal perspective.

Again, I would like to stress that every member of Youth Court gets out as much as they put into it.

Sincerely,



Erin Choi

Anchorage Youth Court Bar Secretary

Date: Thu, 04 Feb 1999 12:15:03 +0100
From: posey in alaska <poseyak@alaska.net>
Reply-To: poseyak@alaska.net
MIME-Version: 1.0
To: ayc@micronet.net
Subject: Support letter- Liz

Elizabeth Posey
2311 Canary Court
Anchorage, AK 99515
(907) 243-6973
poseyak@alaska.net
February 4, 1999

To Whom It May Concern:

My name is Elizabeth Posey and I am writing this letter in support of House Bill No. 28. This bill will help diversify Anchorage Youth Courts, operating funds. This is important in establishing a foundation to ensure Anchorage Youth Court,s continued success and existence. I have benefited from Anchorage Youth Court in a wide variety of invaluable ways. After joining in eighth grade I have served as both a prosecuting and a defense attorney, Associate Judge, Administrative Judge and my current position as Chief Judge for the second year. In addition to serving in these court positions I have also been involved in the telephone, publicity and ethics committees. My involvement in all these positions has been an overwhelmingly positive experience for me. I have gained and improved on invaluable people, organizational, leadership and public speaking skills. My position as Chief Judge has allowed me to expand my public speaking skills even more and has provided me with numerous contacts throughout the community. My involvement has also helped me develop a measure of respect with my peers and adults around the community. Anchorage Youth Court has done a lot for me, but it has also allowed me to do a lot for my community. My involvement has allowed me to have a direct impact on juvenile crime in addition to slowly changing negative perceptions of Alaska,s youth.

My hope is that this letter will demonstrate what Anchorage Youth Court has done to enrich the lives of Alaska,s youth as well as the community. Please take both sides of the coin into consideration when deciding your position on this bill.

Sincerely,

Elizabeth Posey

Bryan Clark

644 E. 3rd Ave.
Anchorage, AK 99501
(907) 274-7494

February 4, 1999

Representative Eric Croft

Dear Rep. Croft,

I am writing in enthusiastic support of HB 28, dealing with funding to Youth Courts in the State of Alaska.

I first got involved with Anchorage Youth Court at its inception in 1988. I was in the seventh grade at the time, and over my years in junior high and high school I served as an attorney, clerk, bailiff, judge, and AYC Bar President; moreover, I served as a frequent committee member and parliamentarian. In those years, as AYC was finding its feet, I also served as a salesman and pitch maker and learned what it took to make an organization tick.

After graduating from high school, I went to college out of state, and I've returned to Alaska to make a life here. In this time I've come to realize that the lessons I learned in AYC were some of the most valuable in life. AYC entrusted me with the defense of my fellow citizens and my community. AYC relied on me to advocate its cause to the public. Under this responsibility, I became responsible. With this trust, I became trustworthy. And when I looked back on the job I'd done, I was proud of who I was.

AYC has always been asked for facts and figures about its effects on defendants, and these facts are impressive. It gives a certain trust to them also, to help them take responsibility for their actions without condescending or condemning. But I feel that attention should also be given to the successes of our members. AYC gives its members a head start on their future by building their resumes and college applications, and by giving them experience in research and the law, parliamentary procedures, public speaking and debate. Much more than this, however, AYC's members learn valuable lessons about values and self-confidence. They learn that they can participate in the system instead of resenting it, and that their efforts and example can make a real difference in their communities. AYC builds good citizens and leaders.

I will always be indebted to AYC for believing in me and helping me become who I am today. Alaska's Youth Courts deserve all of the support we can offer to continue to set the standard for the nation in juvenile justice and the education of our young people.

Sincerely,



Bryan Clark

Stuart Bannan
2130 Atwood Drive
Anchorage, AK 99517
bannan@alaska.net
28 January 1999

Dear Representative Berkowitz:

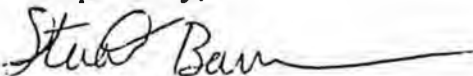
I am writing in support of House Bill 28. I believe that this bill will go a long way to help youth courts continue the service they provide to their communities throughout Alaska.

My own youth court, Anchorage Youth Court, has had a considerable influence on me in the three years I have been involved. My own personal education of both the legal system and the political system has been greatly enhanced. This is due entirely to the fact that Anchorage Youth Court (AYC) has offered me first hand experience; in youth courts students do not learn by just reading about something, they do it. I never would have had the knowledge of the law I have today if I had not taken the eight week training required for AYC membership, or had not been a judge on cases where I had to weigh the evidence and come to a fair decision. Similarly with my education of the political system I have benefited from first hand experience. Through youth court I have given presentations in front of the Anchorage Assembly, gone to meetings as wide ranging as the Anchorage Chamber of Commerce and the United Way Board, and generally got to know the people who are making the decisions in our community. I feel all of these experiences have made me more aware of and more respectful of how truly great and unique our American legal and political systems are.

Of course the main goal of all youth courts is to help the young people who come through because they have committed a crime. Youth courts have the philosophy that teens who commit minor crimes such as shoplifting should not only receive consequences holding them responsible for their actions but also receive education to change their behavior. In the setting of youth court, young people are telling the young people who commit crimes that we do not condone their actions, and in fact we really do not appreciate it because actions like theirs hurt all young people by bringing about negative stereotypes. It is our belief (and we have the statistics to back this up) that young people are more apt to listen to their peers and take what they have been told to heart. For me the strongest proof of youth courts' effectiveness is when I see someone who had been sent to AYC as a defendant join the AYC Bar and begin advocating the law.

I respectfully ask you to take these points into consideration as you vote. Youth courts serve a very important role throughout the state, and HB 28 is a fair and just way to help ensure that youth courts can continue their service. Please vote to accept House Bill 28.

Respectfully,



Stuart Bannan,
Vice-President, Anchorage Youth Court Bar Association
Presiding Judge, Anchorage Youth Court

cc: Rep. Eric Croft

Subject: Alaskan youth courts

Date: Fri, 05 Feb 1999 13:03:19 -0800 (PST)

From: Ossiander Lia A <ossianla@plu.edu>

To: Representative_Eric_Croft@legis.state.AK.US

Dear Rep. Croft,

I was contacted by Linda Johnson about the Alaskan youth courts bill you are sponsoring, and I was pretty pleased to hear that an effort is being made to build up youth courts at home. I'm a student at Pacific Lutheran University this year, and was a member of Anchorage Youth Court during high school, so I wrote a brief letter of support for youth courts. I hope you can pass it along to some of your colleagues so they can hear more about the great job youth courts are doing. If you would like me to mail you a hard copy or attach the letter in another file to an email, please let me know. I check my email at ossianla@plu.edu frequently, so I can get back to you quickly.

Thanks!

Lia

Here's the letter:

Dear Legislator:

I am writing in enthusiastic support of Representative Crofts proposal to strengthen Alaskas youth courts by establishing a sustainable source of funding for the founding of new courts and operation of existing ones. As a freshman at Pacific Lutheran University who served in Anchorage Youth Court for five years as an attorney and a Presiding Judge, I regard myself as very lucky to have had the opportunity to participate in this excellent program that benefits the youth court members, the defendants, and the community.

My responsibility in Anchorage Youth Court to act as a fair judge of my peers earned me respect in the eyes of adults who interact with young offenders. My role in the process of rehabilitation was taken seriously, because I was not only a teen myself, but I was making a difference to decrease youth crime and help young offenders. To participate directly in a problem so closely associated with teenagers gave me credibility instead of being dismissed as a member of the age group that is part of the problem. The best way to change the problem of teen crime is to make teens part of the solution.

Youth courts integrate young people into the solution for youth crime in the best possible forum: as direct participants in a courtroom. I have seen defendants visibly impacted by the experience of standing before a panel of judges or in front of a jury to be held accountable for their actions. The immediate, tangible consequence of their crime is meaningful because it is examined carefully and critically by their defense counsel, prosecutors, and the judges. The defendants actions and particular circumstances are questioned in the open courtroom, and the resulting sentence results from the considerations each individual case merits when held against a uniform, high standard. The defendant recognizes his or her actions led directly to their punishment.

As the Alaskan legislature explores strategies to combat youth criminal activity, youth courts should be viewed as one of the most effective ways to dissuade early young offenders upon their first offense. The attention paid to each case and the credibility of a judgment issued by peers is a very powerful motivator. Our state should not pass up an opportunity to allow young people to be involved in a community program like youth court. I am grateful for my opportunity to serve in a youth court and I hope many more Alaskans have this chance in the future. Please contact me if you have any questions about my Anchorage Youth Court experiences. I will happily discuss this wonderful program.

Alaskan youth courts

Sincerely,
Lia Ossiander
ossianla@plu.edu

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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



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Representative Croft
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

February 19, 1999

Dear Representative Croft,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse HB 28 with the stipulation that no money be taken from Alaska Police Standards Council law enforcement training.

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau
State President
Alaska Peace Officers Association



PARENT AYC EVALUATION

optional student's name _____

give to bailiff or front desk, or
leave in evaluation envelope, or
mail or fax (272-0491).
Thank you for your comments.

1. What was your overall impression of how the case was handled?
Very Professional... Promot and very helpful with information.

2. What suggestions do you have for improvement?
None really... since I don't have anything to compare AYC to.

3. What do you think went especially well?
She follow up, on the kids! And the fact that they took there jobs as Magistrate lawyers, bailiff, and prosecutors very seriously.

4. Do you think the experience helped the defendant? Why or why not?
Yes. Because now he sees why, what he did was wrong and how it affected other people. And being responsible for your own actions. Oh and how everyone is responsible for there own debts.



PARENT AYC EVALUATION

give to bailiff or front desk, or
leave in case manager's box, or
mail or fax (272-0491).
Thank you for your comments.

1. What was your overall impression of how the case was handled?

8-20
269
cm

I have served on various juries and was quite impressed with everyone's performance. It was very orderly and done in a serious manner.

2. What suggestions do you have for improvement?

-nothing-

3. What do you think went especially well?

The whole thing went very smooth --

4. Do you think the experience helped the defendant? Why or why not?

Yes - just being in a formal courtroom is an experience in itself. One I don't think she'll want to experience in the same capacity. Thank you -



PARENT/GUARDIAN CASE EVALUATION

RETURN TO AYC OFFICE

1/1
CMM

1. What was your overall impression of how the case was handled?

VERY WELL AND IN A PROFESSIONAL MANNER
GIVING SERIOUS ATTENTION TO THE ISSUE AND
THE PEOPLE INVOLVED (BOTH DEFENDANT AND VICTIM)

2. What suggestions do you have for improvement?

KEEP UP THE GOOD WORK!

3. What do you think went especially well?

THE SERIOUSNESS OF THE ISSUE AND THE COURT
SYSTEM & PROCESS WAS IMPRESSIVE

4. Do you think the experience helped the defendant? Why or why not? I THINK
BOTH ATTORNEYS IDEAS WERE PRESENTED WELL
(ALL THE FACTS AND CIRCUMSTANCES WERE AIDED WELL)

BEING CONFRONTED BY THE LAW
THROUGH THE GROUP OF PEERS
SHOULD LEAVE A MEMORABLE IMPRESSION
IT WILL



PARENT AYC EVALUATION

give to bailiff or front desk, or
leave in case manager's box, or,
mail or fax (272-0491).
Thank you for your comments.

- dm
8-25*
1. What was your overall impression of how the case was handled?
Stephanie's case was handled promptly and with a degree of seriousness, it was not a "Kangaroo court".
 2. What suggestions do you have for improvement?
None, at this time.
 3. What do you think went especially well?
The fact that our child was prepared and receptive to the whole experience.
 4. Do you think the experience helped the defendant? Why or why not?
Yes, the experience helped to re-enforce the reality and the consequences of her actions.



PARENT AYC EVALUATION

RECEIVED

NOV 10 1998

Give to bailiff or front desk, or
leave in case manager's box, or
mail or fax (272-0491).
Thank you for your comments.

1. What was your overall impression of how the case was handled?

The case was handled in a very professional manner. I felt the attorney was very knowledgeable and helped to make the defendant feel at ease.

2. What suggestions do you have for improvement?

nothing

3. What do you think went especially well?

I thought the whole process went very well. I'm quite impressed with this program.

4. Do you think the experience helped the defendant? Why or why not?

Yes, I feel it helped him to understand the judicial system in a much more informal setting.



PARENT EVALUATION

(optional) student's name _____
date 2-3-99

please hand this to the bailiff or front desk, or
leave in evaluation envelope, or
mail or fax (272-0491).

Thank you for your comments.

1. What was your overall impression of how your student's case was handled?

It was well thought out and researched
by both attorneys.

2. What suggestions do you have for improvement?

3. What do you think went especially well?

The banter by both prosecuting and
defending attorneys when the charges
were being discussed. They knew the law
and the charges & were each doing their
very best to make sure their side prevailed.

4. Do you think the experience helped your student? Why or why not?

Yes I do. It was very sobering as to
how a real judge & attorneys would
treat you in a real ~~classroom~~ courtroom.
I think she knows she wouldn't want to
go through the real thing

HB

33



Alaska State Legislature

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Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

SSHB 33 Sponsor Statement

"An Act relating to bounty hunters and to capturing criminal suspects or fugitives."

The recent example of two heavily armed men, dressed in black, breaking into a private home in the middle of the night with drawn weapons illustrates the need for Alaska to stop bounty hunters from operating in our state.

Alaskan peace officers always honor felony warrants from other states and countries if the other jurisdiction wants the prospective felon extradited. Having contracted private citizens kidnap Alaskans and then forcibly transport them to another jurisdiction is very problematic in terms of protecting the human and civil rights of the kidnapped victim. In addition, the kidnapers (a.k.a. bounty hunters) are, themselves, at risk; most Alaskans have weapons at home and are quite unaccustomed to having their homes invaded by armed people without resisting vigorously.

Alaska Department of Public Safety personnel strongly support this effort to eliminate bounty hunters in our state.

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

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

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 33
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE DYSON

Introduced: 3/5/99
Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to arrests."

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

3 * Section 1. AS 12.25 is amended by adding a new section to read:

4 **Sec. 12.25.025. Grounds for arrest by private person.** A private person may
5 arrest a person without a warrant for a crime committed in this state or attempted in
6 this state in the presence of the person making the arrest. A private person may not
7 arrest a person for a crime not committed or attempted in the presence of the person
8 making the arrest.

9 * Sec. 2. AS 12.25.030(a) is amended to read:

10 (a) A [PRIVATE PERSON OR A] peace officer [WITHOUT A WARRANT]
11 may arrest a person without a warrant

12 (1) for a crime committed or attempted in the presence of the officer
13 [PERSON] making the arrest;

14 (2) when the person has committed a felony, although not in the
15 presence of the officer [PERSON] making the arrest;

1 (3) when a felony has in fact been committed, and the officer
 2 [PERSON] making the arrest has reasonable cause for believing the person to have
 3 committed it;

4 (4) when the officer has probable cause to believe the person has,
 5 either in or outside the presence of the officer,

6 (A) committed a crime involving domestic violence, whether
 7 the crime is a felony or a misdemeanor; in this subparagraph, "crime
 8 involving domestic violence" has the meaning given in AS 18.66.990;

9 (B) committed the crime of violating a protective order in
 10 violation of AS 11.56.740; or

11 (C) violated a condition of release imposed under
 12 AS 12.30.025 or 12.30.027;

13 (5) when the peace officer has reasonable cause for believing that
 14 the person has

15 (A) committed a crime under or violated conditions imposed
 16 as part of the person's release before trial on misdemeanor charges
 17 brought under AS 11.41.270;

18 (B) violated AS 04.16.050 or an ordinance with similar
 19 elements; however, unless there is a lawful reason for further detention, a
 20 person who is under the age of 18 and who has been arrested for violating
 21 AS 04.16.050 or an ordinance with similar elements shall be cited for the
 22 offense and released to the person's parent, guardian, or legal custodian;
 23 or

24 (C) violated conditions imposed as part of the person's
 25 release before trial on felony charges brought under AS 11.41.410 -
 26 11.41.458.

27 * Sec. 3. AS 12.25.030(b) is amended to read:

28 (b) In addition to the authority granted by (a) of this section, a peace officer

29 [(1)] shall make an arrest under the circumstances described in
 30 AS 18.65.530 [;

31 (2) WITHOUT A WARRANT MAY ARREST A PERSON IF THE

1 OFFICER HAS PROBABLE CAUSE TO BELIEVE THE PERSON HAS, EITHER
2 IN OR OUTSIDE THE PRESENCE OF THE OFFICER,

3 (A) COMMITTED A CRIME INVOLVING DOMESTIC
4 VIOLENCE, WHETHER THE CRIME IS A FELONY OR A
5 MISDEMEANOR; IN THIS SUBPARAGRAPH, "CRIME INVOLVING
6 DOMESTIC VIOLENCE" HAS THE MEANING GIVEN IN AS 18.66.990;

7 (B) COMMITTED THE CRIME OF VIOLATING A
8 PROTECTIVE ORDER IN VIOLATION OF AS 11.56.740; OR

9 (C) VIOLATED A CONDITION OF RELEASE IMPOSED
10 UNDER AS 12.30.025 OR 12.30.027;

11 (3) WITHOUT A WARRANT MAY ARREST A PERSON WHEN
12 THE PEACE OFFICER HAS REASONABLE CAUSE FOR BELIEVING THAT THE
13 PERSON HAS

14 (A) COMMITTED A CRIME UNDER OR VIOLATED
15 CONDITIONS IMPOSED AS PART OF THE PERSON'S RELEASE BEFORE
16 TRIAL ON MISDEMEANOR CHARGES BROUGHT UNDER AS 11.41.270;

17 (B) VIOLATED AS 04.16.050 OR AN ORDINANCE WITH
18 SIMILAR ELEMENTS; HOWEVER, UNLESS THERE IS A LAWFUL
19 REASON FOR FURTHER DETENTION, A PERSON WHO IS UNDER THE
20 AGE OF 18 AND WHO HAS BEEN ARRESTED FOR VIOLATING
21 AS 04.16.050 OR AN ORDINANCE WITH SIMILAR ELEMENTS SHALL
22 BE CITED FOR THE OFFENSE AND RELEASED TO THE PERSON'S
23 PARENT, GUARDIAN, OR LEGAL CUSTODIAN; OR

24 (C) VIOLATED CONDITIONS IMPOSED AS PART OF THE
25 PERSON'S RELEASE BEFORE TRIAL ON FELONY CHARGES BROUGHT
26 UNDER AS 11.41.410 - 11.41.458].

27 * Sec. 4. AS 12.25.040 is amended to read:

28 **Sec. 12.25.040. Taking before judge or magistrate person arrested by**
29 **private person [BYSTANDER].** A peace officer may, without warrant, take before
30 a judge or magistrate a person who **has been** [, BEING ENGAGED IN A BREACH
31 OF THE PEACE, IS] arrested by a **private person** [BYSTANDER] and delivered to

1 the peace officer.

2 * Sec. 5. AS 12.30.020(e) is amended to read:

3 (e) The judicial officer shall inform the person of the penalties that may be
4 imposed for a violation of the conditions of release and advise the person that a
5 warrant for the person's arrest will be issued immediately upon a violation or that the
6 person may be arrested without a warrant for a violation of conditions of release as set
7 out in AS 12.30.030 [AS 12.25.030(b)].

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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



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Representative Dyson
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

February 19, 1999

FEB 23 1999

Dear Representative Dyson,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse HB 33.

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau
State President
Alaska Peace Officers Association

Bounty hunters get no quarter

State tries to rein in practice, suspends moonlighting guards

The Associated Press

KENAI — One of the state's top prosecutors says Alaska officials want to sharply limit bounty hunting after two prison guards barged into a Nikiski house to capture a man wanted in Washington state.

The guards, moonlighting as bounty hunters, were charged with three counts of third-degree assault and one count of first-degree burglary after the Oct. 1 incident.

David Cameron, 45, and Ronald Williams, 54, both of Kenai, have since been suspended without pay from their jobs at the Wildwood Correctional Center.

Another man, Seth Oehler, 28, faces the same charges.

The three allegedly broke into the Nikiski home to take custody of an accused bail jumper from Washington state, 31-year-old Ricky Welch.

"The message we want to get out is that this will not be tolerated in Alaska," Dean Guaneli, Alaska's chief assistant attorney general, told the Peninsula Clarion of Kenai.

"Our position on this is that it

'Our position on this is that it represents a serious danger to innocent people. Where this has been a problem Outside, it has usually involved basically untrained yahoos getting liquored up and kicking in the wrong doors.'

— Dean Guaneli, Alaska's chief assistant attorney general

represents a serious danger to innocent people. Where this has been a problem Outside, it has usually involved basically untrained yahoos getting liquored up and kicking in the wrong doors."

Most bounty hunting involves relatively minor charges, Guaneli said. Bail jumpers fleeing serious felonies, such as violent crimes, usually are handled by official law enforcement personnel, he added.

"We're pretty good in Alaska about picking up and extraditing serious offenders," Guaneli said.

The Alaska Legislature has not

yet tried to regulate bounty hunters, and Guaneli said he is not sure another law is the answer.

It's not clear how much bounty hunting goes on in Alaska. There is no state statute requiring bounty hunters to check in with local police before going to work. And because the practice is unregulated there is no state information on bounty hunting.

"Whether there needs to be another statute remains to be seen," Guaneli said, "but this is an area where we certainly don't want to see a lot of free-lancing going on."

DEC 11 1998

AMENDMENT #1

4/28
admitted

OFFERED IN THE HOUSE

BY REPRESENTATIVE DYSON

TO: SSHB 33

1 Page 4, following line 7:

2 Insert a new bill section to read:

3 ⁶ ** ~~Sec. 3.~~ AS 12.70.130 is amended to read:

4 **Sec. 12.70.130. Arrest without warrant.** The arrest of a person may also
5 be lawfully made by a peace officer [OR A PRIVATE PERSON] without a warrant
6 upon reasonable information that the accused stands charged in the courts of another
7 state with a crime punishable by death or imprisonment for a term exceeding one
8 year. When [, BUT WHEN] arrested, the accused must be taken before a judge or
9 magistrate without unnecessary delay and, in any event, within 24 hours after arrest,
10 including Sundays and holidays. A [, AND] complaint shall be made against the
11 accused under oath setting out the ground for the arrest as in AS 12.70.120.
12 Thereafter, the answer of the accused shall be heard as if the accused had been
13 arrested on a warrant."

Bounty hunters get no quarter

State tries to rein in practice, suspends moonlighting guards

The Associated Press

KENAI — One of the state's top prosecutors says Alaska officials want to sharply limit bounty hunting after two prison guards barged into a Nikiski house to capture a man wanted in Washington state.

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"Whether there needs to be another statute remains to be seen," Guanelli said, "but this is an area where we certainly don't want to see a lot of free-lancing going on."

DEC 11 1998

0-LS0240\D
4/27/98

AMENDMENT

#2

4/28

adopted

OFFERED IN THE HOUSE

BY _____

TO: SSHB33, Draft version " D"

Page 4, Line 7

Delete "AS 12.30.030"

Add "AS 12.25.030"

This is just a typographical error.

HB

34

4/9

1-LS0241\G
Luckhaupt
4/8/99

COPY

CS FOR HOUSE BILL NO. 34()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE DYSON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the crime of failure to report the commission or attempted
2 commission of certain crimes against children."

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

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

5 Sec. 11.56.765. Failure to report a violent crime committed against a child.

6 (a) A person commits the crime of failure to report a violent crime committed against
7 a child if the person witnesses ^{what the person knows or reasonably knows} a murder, kidnapping, sexual assault, or assault that is
8 punishable as a felony of a child under 18 years of age, or an attempt to commit one
9 of those crimes, by another and

10 (1) knows or reasonably should know that the child is under 18 years
11 of age; and

12 (2) does not in a timely manner report that crime to a peace officer or
13 law enforcement agency.

14 (b) In a prosecution under this section, it is an affirmative defense that the

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defendant

(1) did not report in a timely manner because the defendant reasonably believed that doing so would have exposed the defendant or others to a substantial risk of physical injury; or

(2) acted to stop the commission of the crime and stopped the commission of the crime.

(c) Failure to report a violent crime committed against a child is a class A misdemeanor.

1-LS024\ND
Luckhaupt
4/8/99

4/8

CS FOR HOUSE BILL NO. 34()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE DYSON

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the crime of failure to report the murder or kidnapping of**
2 **a child or to come to the aid of the child."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

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

5 **Sec. 11.56.765. Failure to report the murder or kidnapping of a child or**
6 **to come to the aid of the child. (a) A person commits the crime of failure to report**
7 **the murder or kidnapping of a child or to come to the aid of the child if the person**
8 **witnesses the murder, attempted murder, kidnapping, or attempted kidnapping of a**
9 **child under 18 years of age by another and**

10 **(1) knows or reasonably should know that the child is under 18 years**
11 **of age; and**

12 **(2) does not**

13 **(A) in a timely manner report that crime to a peace officer or**
14 **law enforcement agency; or**

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(B) immediately come to the aid of the child.

(b) In a prosecution under this section, it is an affirmative defense that the defendant did not report in a timely manner and did not come to the aid immediately because the defendant reasonably believed that doing so would have exposed the defendant ^{or others} to a substantial risk of physical injury.

(c) Failure to report the murder or kidnapping of a child or to come to the aid of the child is a class A misdemeanor.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 34

Revision Date/Time (Note if correction)	Dept. Affected <u>Law</u>
Title <u>An Act relating to the crime of misprison of a crime against a child.</u>	BRU <u>Criminal Division; Civil Division</u>
Sponsor <u>Representative Dyson</u>	Component <u>1st-4th Judicial Districts; Criminal Appeals/Special Lit; Human Services</u>
Requester <u>House Judiciary Committee</u>	Component Serial No. <u>2198/99/2261/79/01/03/08</u>

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 34 would make witnessing the commission of a listed offense against a minor, and not reporting it to law enforcement immediately, itself a crime.

The Department of Law has no way to estimate how many cases this new offense might generate. Anytime a new crime is created, there is a cost for prosecution. How much that is, however, depends on the volume of new cases. Until some experience is gained, the department cannot estimate the fiscal impact of this bill.

Prepared by Joan M. Kasson *Joan M. Kasson*
 Division Attorney General's Office
 Approved by Commissioner Bruce M. Botelho, Attorney General
 Agency Department of Law

Phone 465-5370
 Date/Time 4/2/99, 9:53 AM
 Date 4/2/99

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 34

Revision Date: _____
Title: "An Act relating to the crime of misprision of a crime against a child"
Sponsor: Representative Dyson
Requestor: (H)JUD

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2 002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**
CAPITAL EXPENDITURES	**	**	**	**	**	**
CHANGE IN REVENUES ()	**	**	**	**	**	**

FUND SOURCE: (Thousands of Dollars)

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

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

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Robert Pue Jr.
Agency: Department of Administration

Date: 4/2/99

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Bill Text



BILL ID: CSSSSB 5(JUD)

00 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 5(JUD)

01 "An Act relating to the crime of misprision of felony."

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

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

04 **Sec. 11.56.765. Misprision of felony.** (a) A person, other than the victim,
05 commits the crime of misprision of felony if the person witnesses the commission by
06 another of murder in the first degree, murder in the second degree, kidnapping, sex
07 assault in the first degree, sexual abuse of a minor in the first degree, or arson
08 first degree or has knowledge of the actual commission by another of murder in the
09 first degree, murder in the second degree, kidnapping, sexual assault in the first
10 sexual abuse of a minor in the first degree, or arson in the first degree and does
11 in a timely manner report that crime to a peace officer or law enforcement agency.

12 (b) In a prosecution under this section,

13 (1) it is an affirmative defense that the defendant did not report in a
14 timely manner because the defendant reasonably believed that doing so would have
01 exposed the defendant to a substantial risk of physical injury;

02 (2) the state does not have to prove that the defendant knew the degree
03 of the crime not reported.

04 (c) Misprision of felony is a class A misdemeanor.

Bill Root:

[Return to BASIS Main Menu\(21th Legislature\)](#)

BASIS Last Updated 4/05/99 11:30 AM

AMENDMENT TO HB-34

Add a new paragraph ©

© it is an affirmative defense that the defendant did not report in a timely manner because the defendant reasonably believed that doing so would have exposed the defendant to a substantial risk of physical injury.

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 34

1999 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill makes it a crime if a person witnesses a serious crime against a child, but fails to immediately report the crime. The crime is a class C felony.

Under current law, it is illegal to "render assistance" to someone who has committed a crime. (Hindering Prosecution, AS 11.56.770-.780) Rendering assistance is broadly defined and includes providing or aiding in transportation or providing other means of avoiding discovery or apprehension. Under this bill, for the first time in Alaska, a witness could be found guilty of a felony for failing to report a crime.

It is impossible to predict the number of cases that may arise under this bill. However, there are certain to be complicated and difficult legal challenges that the Public Defender Agency would be obligated to raise.

For example, if there is a "reasonable possibility" that a person may face criminal charges, the privilege against self-incrimination would apply. The applicability of privileges to this statute would have to be litigated. Also, there may equal protection problems. A person who is criminally responsible would be able to ignore this law, but an innocent person could end up facing charges.

Therefore, although there may be few cases brought, there would be difficult and time-consuming legal challenges Public Defender attorneys would have to work on.



Alaska State Legislature

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Eagle River, Alaska 99577
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- Session (Jan-May) -
Alaska State Capitol
Juneau, Alaska 99801-1182
☎ (907) 465-2199
FAX (907) 465-4587

Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

MEMORANDUM

March 9, 1999

To: Representative Pete Kott, Chair
Judiciary Committee

From: Representative Fred Dyson 

Subject: Request to schedule HB 34

Please schedule a Judiciary Committee hearing on HB 34, "An Act relating to the crime of misprision of a crime against a child." Attached is a Sponsor Statement for your review.

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

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

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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Pres. Prince of Wales Chapter

John Lucking, Jr., Member
Unalaska
Pres. Aleutian Islands Chapter

February 19, 1999

Representative Dyson
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

FEB 23 1999

Dear Representative Dyson,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse HB 34.

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau
State President
Alaska Peace Officers Association



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☎ (907) 694-6683
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FAX (907) 465-4587

Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

HB 34 Sponsor Statement

"An Act relating to the crime of misprision of a crime against a child."

Recently, in a Las Vegas casino, a 7-year-old child was assaulted and then murdered in a public restroom. The perpetrator's friend left the restroom as the assault was taking place yet did nothing to assist the victim. In New Jersey, a 31-year-old woman was beaten with a baseball bat while the perpetrators' three friends watched from a nearby car.

Four states have "Good Samaritan" laws, Vermont, Massachusetts, Rhode Island and Minnesota. Nevada and New Jersey do not; the witnesses to the above crimes could not be charged.

HB 34 makes it a Class C felony to not report an in-progress felonious assault on a child. Of course, we all hope that all citizens would immediately go to the aid of that child. However, some citizens are intimidated by violence and might be afraid of retribution. HB 34 would set the minimum standard of reporting the crime in progress to public safety officials who would then be able to come to that child's aid.

The law does many things in our culture, not the least of which is the function of stating and defining our cultural values and standards. I do not expect this proposed law to be used often, but it will send the message that it is not acceptable to stand by and do nothing when a child is being beaten, raped, or killed. A few well-publicized prosecutions of flagrant violators who refuse to help a child will have a salutary affect in our culture.

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

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



OCT 28 1998

LAS VEGAS REVIEW JOURNAL



Wednesday, September 30, 1998

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 - [Sports Scores](#)
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Iverson slaying prompts 'good Samaritan' bill

Associated Press

TRENTON, N.J. -- An assemblyman joined a growing chorus of state and federal lawmakers who want to make witnessing a violent crime and not reporting it to police a criminal act.

Assemblyman William Payne, D-Essex, introduced on Tuesday the "good Samaritan" bill.

Payne said the bill was inspired by Sherrice Iverson, a 7-year-old California girl who was raped and strangled in a restroom stall of a Nevada casino in May 1997.

Jeremy Strohmeyer, 19, of Long Beach, Calif., pleaded guilty to kidnapping, sexually assaulting and killing Iverson at the Primm Valley hotel, 43 miles south of Las Vegas.

Strohmeyer's friend David Cash Jr. witnessed the girl's kidnapping but left the restroom as Strohmeyer assaulted her.

The case has spurred public interest in "good Samaritan" laws, which would require bystanders to call police if they witness a violent crime.

The case also has prompted federal legislation. A Texas congressman, Democrat Nick Lampson, on Sept. 9 introduced the Sherrice Iverson Act.

The federal bill would require states to enact criminal penalties against witnesses who do not report sexual crimes against children.

Nevada authorities said they could not charge Cash because to witness a crime and do nothing about it is not illegal in the state.

Four states -- Vermont, Massachusetts, Rhode Island and Minnesota -- have good Samaritan laws, Payne said.

The Assembly bill is identical to a state Senate bill introduced Sept. 17.

The Senate bill stems from an August attack in New Jersey.

Two men beat a 31-year-old Woodbridge woman

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with a baseball bat and threatened her with a gun in an attempt to steal her car from her mother's driveway.

While the two men pummeled the woman, three of their friends sat in another car and watched.

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Teen gets life for murdering girl, 7, in casino

By TIM DAHLBERG

The Associated Press

LAS VEGAS — A former honor student avoided the death penalty by pleading guilty Tuesday to molesting and strangling a 7-year-old girl in a casino toilet stall.

Under a plea bargain, Jeremy Strohmeyer, 19, will go to prison for the rest of his life for the 1997 slaying of Sherrice Iverson.

The Long Beach, Calif., teen-ager agreed to the plea bargain hours before he was to go on trial, admitting that he sexually assaulted the girl with his fingers and choked her over the Memorial Day weekend at the Primadonna Casino on the California-Nevada state line.

Not only did prosecutors have his confession, but video surveillance cameras had captured Strohmeyer going into the bathroom with the little girl in a game of hide-and-seek.

District Attorney Stewart Bell said that "death verdicts are always hard to get" and that the plea assures Strohmeyer will be off the street. Strohmeyer will be sentenced next month to life in prison without parole.

Defense attorney Leslie Abramson called Strohmeyer a good boy until seven months before the killing, when "evil influences" took over his life. She listed drugs, Internet

pornography and friends like David Cash Jr., whom she suggested "is not a witness but a co-perpetrator in this case."

Cash, 19, told authorities he entered the restroom a few minutes after his friend, peered over the wall of an adjoining stall and saw Strohmeyer with his hand over Sherrice's mouth, muffling her screams. Cash said he told Strohmeyer to let her go and then left the restroom.

Cash was not charged because Nevada has no "Good Samaritan" law requiring someone who witnesses a crime to try to stop it or to seek help from law enforcement.

Sherrice's mother, angered by Cash's inaction, led a petition drive that gathered more than 30,000 signatures in support of a Good Samaritan law scheduled to be introduced in Congress on Wednesday.

The case also drew attention to the safety of children in casinos. The Los Angeles girl had been left in the casino arcade with her older brother while their father, LeRoy Iverson, gambled in the early-morning hours.

Security guards said that three times, they found the girl alone and told her father to come get her.



JIM LAURIE / Las Vegas Review Journal

Former honor student Jeremy Strohmeyer, with attorney Leslie Abramson at his side, pleaded guilty Tuesday hours before his trial was to begin.

OCT 28 1998

105TH CONGRESS
2D SESSION

H. R. 4531

To amend the Child Abuse Prevention and Treatment Act to require States receiving funds under section 106 of such Act to have in effect a State law providing for a criminal penalty on an individual who fails to report witnessing another individual engaging in sexual abuse of a child.

RECEIVED
JAN 27 1999

Ans'd.....

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 1998

Mr. LAMPSON (for himself, Mr. SANDLIN, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Child Abuse Prevention and Treatment Act to require States receiving funds under section 106 of such Act to have in effect a State law providing for a criminal penalty on an individual who fails to report witnessing another individual engaging in sexual abuse of a child.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Sherrice Iverson Act".

1 SEC. 2. REQUIREMENT ON STATES RECEIVING GRANTS FOR
2 CHILD ABUSE AND NEGLECT PREVENTION
3 AND TREATMENT PROGRAMS.

4 (a) IN GENERAL.—Section 106(b)(2) of the Child
5 Abuse Prevention and Treatment Act (42 U.S.C.
6 5106a(b)(2)) is amended—

7 (1) in subparagraph (C), by striking “and” at
8 the end;

9 (2) in subparagraph (D), by striking the period
10 at the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(E) an assurance in the form of a certifi-
13 cation by the chief executive officer of the State
14 that the State has in effect and is enforcing a
15 State law providing for a criminal penalty on an
16 individual 18 years of age or older who fails to
17 report to a State or local law enforcement offi-
18 cial that the individual has witnessed another
19 individual in the State engaging in sexual abuse
20 of a child.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall take effect on December 31, 2004.

○

HB

42

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 42
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MULDER, Rokeberg

Introduced: 2/16/00
Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for certain false or improper allegations in a
2 civil pleading or for certain improper acts relating to a civil action; amending
3 Rule 82(b), Alaska Rules of Civil Procedure; and providing for an effective date."

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

5 * Section 1. AS 09.65 is amended by adding a new section to read:

6 Sec. 09.65.190. Civil liability for false claims and improper practice. (a)

7 A person may not

8 (1) sign a civil complaint, answer, or other civil pleading that contains
9 false allegations that are material to the claims asserted in the civil action with the
10 intention of asserting allegations that are false; or

11 (2) sign a civil pleading before making reasonable inquiry and
12 determining that, to the best of the signer's knowledge, information, and belief, each
13 claim, defense, ^{denial} and allegation contained in the pleading is well grounded in fact and
14 is warranted by existing law or a good faith argument for the extension, modification,

*compare
Rule 11
why not
have
formed
after
reasonable
inquiry*

1 or reversal of existing law.

Why not put in "improper purpose / times etc Law?"

2 (b) If the trier of fact determines that a party to a civil action has knowingly
3 made a false statement of a material fact in connection with the prosecution or defense
4 of a civil action, the court shall enter judgment against the party making the false
5 statement on the issue to which the false statement relates. If the civil action involves
6 multiple claims and the false statement does not apply to all claims, the judgment
7 required under this subsection shall apply only to those claims to which the false
8 statement relates.

9 * (c) A person may not, on the person's own behalf or as a representative of a
10 party, take part in the initiation, defense, continuation, or procurement of a civil action
11 against another person if the person acts

12 (1) without probable cause on a claim or defense; or

13 * (2) primarily for a purpose other than that of securing the proper
14 adjudication of a claim or defense involved in the civil action.

15 (d) A party who is injured by a violation of

16 (1) paragraph (a)(1) of this section may bring an action for
17 compensatory and punitive damages against the person who signed the civil pleading;

18 (2) paragraph (a)(2) of this section may bring an action for recovery
19 of compensatory damages against the person who signed the pleading; compensatory
20 damages awarded under this paragraph may not exceed the actual reasonable costs and
21 attorney fees that were incurred by the party who was injured, but were not awarded
22 to that party in the action in which the violation of (a)(2) of this section occurred; and

23 o (3) subsection (c) of this section may bring an action for compensatory
24 and punitive damages against the person who took part in the initiation, continuation,
25 defense, or procurement of the civil action.

26 (e) If a party brings an action under (d) of this section, the court shall award
27 actual reasonable attorney fees to the prevailing party regardless of whether the
28 prevailing party is the plaintiff or defendant.

29 (f) A person may not bring a civil action to recover damages under

30 (1) subsections (c) or (d) of this section unless final judgment has been
31 entered in the civil action described in (a) or (c) of this section; and

1 (2) subsection (c) of this section unless

2 (A) in the civil action described in (a) or (c) of this section, a
3 notice of the specific conduct alleged to violate (a) or (c) of this section is
4 served on the opposing party as required under the Alaska Rules of Civil
5 Procedure, but not filed with the court; and

6 (B) the challenged conduct is not appropriately corrected within
7 21 days after notice is served.

8 (g) This section does not apply to an action

9 (1) brought by a person incarcerated by the state;

10 (2) involving divorce or dissolution; or

11 (3) involving adoption, custody, support, or visitation of a child.

12 (h) In this section, "civil pleading" includes motions and affidavits.

13 * Sec. 2. The uncoded law of the State of Alaska is amended by adding a new section
14 to read:

15 **INDIRECT COURT RULE AMENDMENT.** AS 09.65.190(e), enacted in sec. 1 of this
16 Act, has the effect of amending Rule 82(b), Alaska Rules of Civil Procedure, by allowing the
17 award of actual reasonable attorney fees in certain civil actions.

18 * Sec. 3. The uncoded law of the State of Alaska is amended by adding a new section
19 to read:

20 **APPLICABILITY.** This Act applies to an action that accrues on or after the effective
21 date of this Act.

22 * Sec. 4. The uncoded law of the State of Alaska is amended by adding a new section
23 to read:

24 **SEVERABILITY.** Under AS 01.10.030, if any provision of this Act or the application
25 of a provision of this Act to any person or circumstance is held invalid, the remainder of this
26 Act and the application to other persons shall not be affected.

27 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).



NORTHERN ALASKA TOUR COMPANY
PO Box 82991 Fairbanks, Alaska 99708

17 March 2000

TO: Representative Pete Kott, Chair, House Judiciary

FROM: Matt Atkinson

CC: Representative Joe Green
Sam Kito
Alaska Visitors Association
Representative Jeannette James
Representative Norman Rokeberg

Representative Beth Kerttula
Linda Anderson
Eldon Mulder
Representative Lisa Murkowski
Representative Eric Croft

Dear Representative Pete Kott:

I am contacting you as an Alaskan who works in the visitor industry with a small tour business. Your support of HB 42 would be very much appreciated by small (and presumably large) tourism enterprises throughout our state.

This Bill appears to introduce a common sense element to the litigation process. Those who would bring forth suit need to investigate the facts to make sure they are true; if a party lies to further their claim, they lose. In no way are those that have legitimate, truthful claims impacted. The Bill brings forth a measure of equity in a litigious business environment. I feel that this can only help to provide a bit of assurance to new and/or growing enterprises, particularly tourism enterprises, throughout the state.

In closing, I respectfully request your support of HB42 and appreciate all of your efforts in Juneau on behalf of the citizens of Alaska.

Best Regards

Matthew S. Atkinson

Phone 907.474.8600 Fax 907.474.4767

e-mail adventure@northernalaska.com www.northernalaska.com



ALASKA VISITORS ASSOCIATION

2525 C Street, Suite 400 • Anchorage, Alaska 99503

Phone: (907) 561-5733 • Fax: (907) 561-5727

E-mail: avanet.org • www.visitalaska.org

1999-2000

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Tina Lindgren

Executive Director

March 2, 2000

Representative Eldon Mulder
House Finance Committee Co-Chair
State Capitol Room 507
Juneau, AK 99801

Dear Representative Mulder,


I am writing to express the Alaska Visitors Association's support for two bills in the Legislature.

AVA recently voted to support HB 339, which would expand the abilities of the Commercial Fishing and Agriculture Bank to allow loans to small tourism businesses. This new loan option would greatly benefit small tourism businesses and start-up enterprises that might otherwise have difficulty obtaining a regular commercial loan.

AVA also supports House Bill 42, which would discourage frivolous lawsuits by assigning financial penalties for false suits. Many small Alaskan tourism businesses cannot afford the legal fees incurred in such lawsuits, and in some cases the expense of fighting unmerited claims can put an operator out of business. Tourism is the fastest growing industry in the state and the second largest private-sector employer with more and more small Alaskan businesses starting up each year. In order to continue this small business growth, owners need a fighting chance to get their businesses off the ground without the hassle of frivolous litigation.

AVA is a private, non-profit statewide trade association representing all facets of the tourism industry. With more than 500 member businesses, AVA is the largest, statewide visitor industry association representing the full spectrum of visitor industry business interests from small localized rafting operators and wilderness guides to large air and cruise lines. Since 90% of our members are small businesses with fewer than 10 employees, we see that a majority of them would benefit from protection against frivolous lawsuits and increased access to small business loans.

Sincerely,


Anne Adasiak-Andrew
Acting Executive Director

cc: Representative Hudson
Representative Austerman
Representative Rokeberg

SILVER BOW CONSTRUCTION

5331 Shaune Drive
Juneau, AK 99801
(907) 780-4157 ♦ (907) 780-5127 Fax

TO: HOUSE JUDICIARY COMMITTEE MEMBERS
ATTN. REP. ELDON MULDER,
fax. 465-3518
JUNEAU, ALASKA
99801

FROM: BOB DIDIER

DATE: MARCH 15, 2000

SUBJECT: HOUSE BILL 42

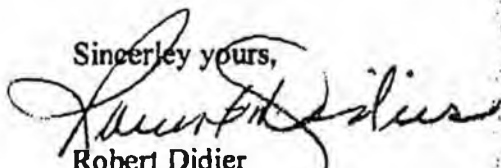
Dear committee Members,

As a private businessmen in Alaska for over thirty years and a NFIB member I have watched with growing alarm the threat and actual use of frevlious law suites.

I feel House Bill 42 as introduced by Representative Moulder is a step in the right direction in bring some sanity back into our courts.

Please consider my wholehearted support for this type of legislation.

Sincerley yours,



Robert Didier
President, CEO

CC Thyes Shaub, fax. 463-5128

INTERIOR Medical Supply

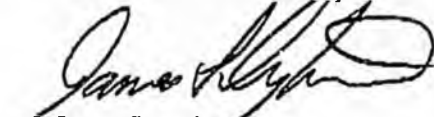
2040 South Cushman, Fairbanks, Alaska 99701, Phone (907) 477-8486, Fax (907) 457-8488

Wednesday, March 15, 2000

To whom it may concern;

We support HB 42 with Eldon Mulder's support of this bill. We believe in the ideas behind requiring parties to be honest and responsible in their pleadings to Alaska's courts.

We are a NFIB member, # 035016129 531 AK 01


James Ingraham

February 27, 2000

Representative Eldon Mulder
Alaska State Capital Bldg.
Juneau, Alaska 99811

Dear Representative Mulder:

After careful review of House Bill 42, I am excited to lend my support. For years, many of us in the service industries in Alaska have asked for various types of tort reform and while HB 42 is not a substitute for the Recreation Liability Bill that has been stalled for these past several years, it is a meaningful piece of legislation addressing a separate but related issue. That being the numerous frivolous and disingenuous lawsuits filed each year that cost small and mid size businesses in Alaska tens of thousands of dollars.

These lawsuits are often groundless, but paid nonetheless because the cost of fighting such nuisance suits is far more expensive than an early settlement for even a blatantly fraudulent claim.

On behalf of my company Alaska Travel Adventures, I appreciate your and Representative Rokeberg's sponsorship of this legislation and ongoing support of Alaska's small business community.

Sincerely

Robert M. Dindinger
President
Alaska Travel Adventures, Inc.

CC: Representative Lisa Murkowski
Representative Pete Kott
Representative Jeanette James
Representative Joe Green
Representative Beth Kertulla
Representative Eric Croft
Representative Norman Rokeberg
Alaska Visitors Association
Alaska Travel Industry Association
Alaska State Chamber of Commerce

ALASKAN AIRCRAFT ENGINES, INC

2425 Merrill Field Drive

Anchorage, AK 99501

C.R.S. CY4R119M

Telephone (907) 272-3581 Fax (907) 272-3592

TO: NFIB/AK state office

SENDER: Esther Alsworth

DATE: March 15, 2000

page one of one - **Following is the message I sent to each of the representatives on your fax.** *EA*

Re: House Bill 42 - The Frivolous Lawsuit Protection Act

Dear Representative:

With the prevalence of lawsuits, many of which are frivolous and some even ridiculous ones, House Bill 42 seems like a needful law. A person should always be responsible for their testimony but because of the love of money many will perjure themselves and lie during lawsuits. This should not be and if legislation will curb this tendency, please make your vote count in passing it.

Respectfully,

Esther Alsworth
Secretary

From the Desk of Heidi Atkinson

*2005 Tribulation Trail
Fairbanks, Alaska 99709*

March 16, 2000

Dear Representative Pete Kott:

I am writing to you regarding House Bill 42. I am a lifelong Alaskan and am currently a student at the University of Alaska - Fairbanks. I have helped fund my education by working in the visitor industry. I hope to remain in Alaska after graduation providing that economic opportunities exist. One area of economic promise lies in the small business opportunities that the visitor industry provides.

I feel that an important way that government can work together with the private sector is to help foster an environment that encourages small business enterprise. As I understand it, passage of House Bill 42 would help towards this end by discouraging frivolous lawsuits by penalizing perpetrators of fraudulent suits. The task of starting a new business is difficult enough without the specter of potential legal fees from unwarranted lawsuits hanging over the entrepreneur.

Please make this small step in helping to improve the business environment for small Alaskan businesses by supporting passage of House Bill 42.

Sincerely,

Heidi Atkinson

Heidi Atkinson

DALTON HIGHWAY ADVENTURES

PO Box 82720 Fairbanks, Alaska 99708

phone/fax 907-474-0030

17 March 2000

Representative Pete Kott
House Judiciary Committee
Juneau, Alaska 99801

Dear Representative Kott:

I am a life-long Alaskan resident who has recently entered Alaska's visitor industry with my new business, Dalton Highway Adventures. Dalton Highway Adventures is a small, Fairbanks-based company that outfits independent travelers with those things they need [auto rentals, outdoor gear, etc.] to visitors planning to independently explore one of Alaska's most exciting new visitor destinations, the Dalton Highway.

In recent years I had noticed an increasing number of my friends and neighbors starting their own visitor industry businesses, and I found it exciting that the visitor industry appeared to be a growing, Alaska-based basic industry that a small business owner like myself could actually participate in. Sensing opportunity, I have decided to jump in with both feet.

The good news is that Dalton Highway Adventures should have its doors open for business when visitors begin arriving in mid-May. The bad news is that the #1 hurdle I am encountering in attempting to open my business is both the availability and cost of liability insurance for a small, adventure-oriented business like mine. According to the insurance industry, Alaska's lawyer-friendly laws make it easy for one of my customers to sue me regardless of whether their claim really has merit. Furthermore, it is small businesses like mine that tend to be the easy targets because we lack the deep pockets to defend against a frivolous lawsuit. Too often, small businesses are forced to choose between paying to settle a frivolous lawsuit out-of-court OR go out-of-business paying for the attorney costs necessary to defend against a frivolous lawsuit.

Alaska's current lawyer-friendly laws are creating a situation where only the large cruise companies have the deep pockets necessary to scare off frivolous lawsuits and afford ever more costly liability insurance premiums. PLEASE SUPPORT HB 42 and help small, Alaska-owned businesses like mine continue to participate in Alaska's growing visitor industry.

Sincerely



Erika Weld
Dalton Highway Adventures

MARCH 16, 2000

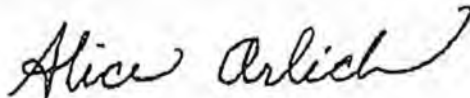
REPRESENTATIVE PETE KOTT
HOUSE JUDICIARY COMMITTEE
JUNEAU, ALASKA 99801

DEAR CHAIRMAN KOTT:

I AM WRITING ASKING YOUR SUPPORT OF HB 42. I AM THE OPERATOR OF A SMALL SEASONAL BUSINESS LOCATED IN WISEMAN, ALASKA [POP. 27] CALLED THE WISEMAN MUSEUM. A MAJOR EXPENSE ASSOCIATED WITH OPERATING EVEN A SMALL, ONE-CABIN MUSEUM IN A SMALL VILLAGE IN RURAL ALASKA IS THE HIGH COST OF BUSINESS LIABILITY INSURANCE. A CUSTOMER WHO PATRONIZES MY MUSEUM COULD SUE ME AND FORCE ME TO DEFEND THE SUIT UNDER CURRENT ALASKA LAW EVEN IF THE LAWSUIT IS COMPLETELY WITHOUT MERIT. THE RESULT IS EVER-INCREASING BUSINESS LIABILITY INSURANCE COSTS THAT MAKE IT DIFFICULT FOR A SMALL, RURAL-BASED OPERATOR TO KEEP HER DOORS OPEN FOR BUSINESS.

RURAL-BASED, ALASKAN SMALL BUSINESSES NEED YOUR HELP. PLEASE SUPPORT HB 42.

THANKS FOR LISTENING



ALICE ORLICH
WISEMAN MUSEUM
PINGEL CABIN
WISEMAN, ALASKA



The Arctic Circle Trading Post

Mile 49, Elliott Highway, Alaska. PO Box 85184, Fairbanks AK 99708

17 March 00

TO: Representative . . .

FROM: Lee Kenaston, Arctic Circle Trading Post

RE: Support for House Bill 42

I am writing as a small business operator in the Alaska Visitor Industry in support of House Bill 42.

House Bill 42 would discourage frivolous lawsuits, which could otherwise easily bankrupt a small business. Small businesses in particular are more vulnerable to frivolous lawsuits, as they are the least likely to be able to defend themselves. As a small business operator, I can personally attest to the lack of time and financial resources available to fend off an unmerited claim.

I believe businesses should make every reasonable effort to provide a safe experience for visitors. However, a person participating in an activity should be responsible for the obvious inherent risks associated with that activity. Simply put, frivolous lawsuits and unmerited claims are a waste of society's time and energy. House Bill 42 addresses this issue in a manner that is fair to both parties.

Thank you for serving as an elected official and making the tough decisions that chart Alaska's future. As a proud member of Alaska's Visitor Industry, which does so much to raise the quality of life for all Alaskans, I urge you to support House Bill 42.

Best Regards

Lee Kenaston
Arctic Circle Trading Post

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

March 17, 2000

Representative Pete Kott, Chair
House Judiciary Committee
Fax: 907-465-2819

Dear Representative Kott,

I am writing to you today to express my support for House Bill 42.

As a life-long Alaskan I participate in many outdoor activities which involve taking a risk. I prepare for these risks. These activities can be anything as "simple and easy" as riding my bike on city streets and designated bike trails, a little more involved like taking my kayak out to T-Harbor and going for a day trip along the Bread Line, or putting on a backpack and hiking the Chilkoot Trail.

However, no matter how much I prepare something wrong can happen. There are inherent risks to participating in activities.

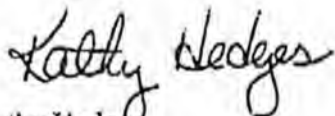
Many visitor industry businesses I have worked for from Juneau to Fairbanks provide an opportunity for guests to enjoy Alaska. These include hot springs resorts, snow machine tours, dog sled rides, motorcoach companies and art galleries. All of these businesses - large and small - have trained staff to work on the equipment and introduce guests to the activity and Alaska.

If a guest files a frivolous lawsuit it is a detriment to these businesses. There are the legal fees and the time involved. Not two things that are in abundant supply for small business owners.

HB42 does not excuse or allow poor maintenance and training. That is still required and businesses should be held liable for failing to take precautions. But, what they shouldn't be held liable for is the inherent risk involved in participating in their activity or enjoyment of their property.

Thank you for your time and consideration of passage for HB42.

Sincerely,



Kathy Hedges

CC: Representative Joe Green
Representative Jeannette James
Representative Lisa Murkowski
Representative Norman Rokeberg
Representative Eric Croft
Representative Beth Kortula

Kathy Hedges * PO Box 72218 * Fairbanks AK 99707 * 907-474-2035

AURORA DRILLING

A DIVISION OF AMERICAN ARCTIC COMPANY
P.O. BOX 61618 • FAIRBANKS, ALASKA 99708 • PHONE (907) 456-6712 • FAX (907) 451-4358

TO: House Judiciary Committee Member

FROM: Gregg C. MacDonald

DATE: Thursday, March 16, 2000

RE: HB 42 - The Frivolous Lawsuit Protection Act

I strongly support HB-42 as a means to insist that legitimate claims only be heard. Our legal system currently allows for much irresponsible use without penalty for that misuse. I urge you to pass this measure as a step in regaining sanity in the use of our judicial process.

Sincerely,


Gregg C. MacDonald

GCM/cm



JAN'S DISTRIBUTING, INC.

1807 W. 47th Avenue
Anchorage, Alaska 99517
243-JANS
Fax 243-5744
1-800-478-9898

TO: ALL HOUSE JUDICIARY COMMITTEE MEMBERS
FROM: JAN'S DISTRIBUTING
DATE: MARCH 15, 2000
RE: HB-42 - The Frivolous Lawsuit Protection Act

Jan's Distributing Inc. is 100% in favor of passing this bill! We need this kind of protection as well as does the employers. We are members of the NFIB.

Please find signatures of our employees below in favor of this bill.

Diop Marwin *Tiffany Hinkshaw*
Stephen J. Leung
[Signature]
Bob Scott
[Signature]
Deborah [Signature]
[Signature]
BW Luffich
[Signature]

SECTION BY SECTION ANALYSIS OF CSSH42

Section 1

Subsection (a)(1). Prohibits a person from signing a civil pleading that contains false allegations that are material with the intention of asserting claims or defenses that are false. This language is identical to the language contained in SSHB42.

Subsection (a)(2). Prohibits a person from initiating or signing a civil pleading before making a reasonable inquiry and forming a reasonable belief in both the existence of the facts upon which the claim or defense is based and that under those facts the claim or defense is valid under applicable law. This language differs from the language contained in SSHB42 by more clearly stating that there must be an objectively reasonable inquiry and belief in both the facts and law upon which the claim or defense is based.

Subsection (a)(3). Prohibits a person from participating in the continuation of a claim or defense after the person discovers that the claim or defense is not supported by a reasonable basis in fact or is not valid under applicable law. This concept was contained Section 1(d)(3) of SSHB42.

Subsection (b). Provides that the court shall enter judgment against a party who intentionally makes a false statement of material fact in connection with the prosecution or defense of a civil action. This language is identical to the language contained in Section 1(b) of SSHB42, except that the word "intentionally" has been substituted for the word "knowingly" in the interests of consistency and clarity.

Subsection (c)(1). Allows a party injured by a violation of paragraph (a)(1) to bring an action for compensatory and punitive damages against the person who signed the pleading.

Subsection (c)(2). Allows a party injured by paragraph (a)(2) to bring an action for compensatory damages against a person who wrongfully initiated or signed the pleading.

Subsection (c)(3). Allows a party injured by a violation of (a)(3) to bring an action for compensatory damages against the person who wrongfully participates in the continuation of a claim or defense.

Paragraphs (c)(2) and (c)(3) clarify that an action for violation can be brought only against the person who wrongfully initiated, signed or participated in the continuation of a claim or defense. These two paragraphs also limit the damages to compensatory damages only, whereas under SSHB42, punitive damages could be sought.

Subsection (d). Provides the court shall award actual reasonable attorney's fees and actual reasonable costs to the prevailing party in any action brought under (c). The only change made from SSHB42 is that actual reasonable costs was added.

Subsection (e). Provides that a civil action under (c) may not be brought unless:

- (1) Notice of the specific conduct with supporting evidence was served on the opposing party;
- (2) The challenged conduct was not appropriately corrected within twenty-one days of the notice;
- (3) The person prevailed on the claim or defense that was the basis for the notice; and
- (4) Final judgment has been entered.

In this Subsection, the Committee Substitute makes two changes to SSHB42. First, (e)(1) requires any supporting evidence to be served with the notice of violation. This change was made to insure that the notice of violation will be a fair, substantively based notice and that the notice will be sent with preparation and thought. The second change, which is contained in (e)(3), explicitly states that in order to file a claim, the person must have prevailed on the claim or defense that was the basis of the notice. While this was certainly implicit in SSHB42, it has now been made explicit in response to some of the testimony.

Conclusion

CSSSHB42 explicitly addresses a number of the concerns raised about SSHB42 in the testimony and discussion of the committee members. It both narrows and clarifies the conduct we seek to correct. It imposes an objectively reasonable obligation of inquiry to determine that claims or defenses are reasonably based in fact and are valid under applicable law. It further provides that claims or defenses which lack a reasonable basis in fact or are invalid under applicable law may not be continued. It makes clear that in order to file a claim, a person must have given notice and prevailed on the issue that was the basis of the notice, thus removing the concern that an unsuccessful litigant will abuse this cause of action. It also makes clear that such an action may not be filed until judgment is entered, thus removing the concern that this cause of action will create a trial within a trial. Finally, this proposed legislation is intended to be self corrective to the extent possible through the notice and opportunity to cure provisions of Subsection (e).

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: SSHB 42

1 Page 1, line 9, following "allegations":

2 Insert "or denials"

3 Page 1, line 10, following "allegations":

4 Insert "or denials"

5 Page 1, line 13:

6 Delete "and allegation"

7 Insert "allegation, and denial"

8 Page 2, line 4, following "action":

9 Insert "or has denied a material fact that the party knows or should have known was
10 true"

11 Page 2, line 5:

12 Delete "on the issue to which the false statement"

13 Insert "or denial on the issue to which the false statement or denial"

14 Page 2, line 6, following "statement":

15 Insert "or denial"

16 Page 2, line 8, following "statement":

17 Insert "or denial"

February 27, 2000

Representative Eldon Mulder
Alaska State Capital Bldg.
Juneau, Alaska 99811

Dear Representative Mulder:

After careful review of House Bill 42, I am excited to lend my support. For years, many of us in the service industries in Alaska have asked for various types of tort reform and while HB 42 is not a substitute for the Recreation Liability Bill that has been stalled for these past several years, it is a meaningful piece of legislation addressing a separate but related issue. That being the numerous frivolous and disingenuous lawsuits filed each year that cost small and mid size businesses in Alaska tens of thousands of dollars.

These lawsuits are often groundless, but paid nonetheless because the cost of fighting such nuisance suits is far more expensive than an early settlement for even a blatantly fraudulent claim.

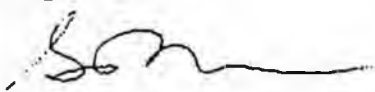
On behalf of my company Alaska Travel Adventures, I appreciate your and Representative Rokeberg's sponsorship of this legislation and ongoing support of Alaska's small business community.

Sincerely

Robert M. Dindinger
President
Alaska Travel Adventures, Inc.

CC: Representative Lisa Murkowski
Representative Pete Kott
Representative Jeanette James
Representative Joe Green
Representative Beth Kertulla
Representative Eric Croft
Representative Norman Rokeberg
Alaska Visitors Association
Alaska Travel Industry Association
Alaska State Chamber of Commerce



TO: Members of Alaska Legislature
FROM: Gary Matthews 
DATE: January 25, 1999
RE: Letter from Paul R. Anderson

You may have recently received a letter from Paul Anderson in reference to a suit brought against ASAA by seven students from Service High School in Anchorage. Mr. Anderson has chosen to solicit your support in the resolution of this litigation.

ASAA has a long standing rule that limits the number of participants on each school's roster at state "team" championships in football, basketball, hockey, volleyball and softball. The purpose is to help maintain a level playing field. For football, the roster is limited to forty players.

I have no idea why the football coaches at Service High School in Anchorage did not notify the players of this rule at the beginning of the season. Parents and students assumed that there was no player limit for the championships. When I reminded the school and the coaches of the rule, a group of seven students filed suit against ASAA (naming each individual board member and the student representative), "seeking injunctive relief, compensatory damages, including emotion distress, prejudgement and post-judgment interest, costs and attorney's fees, and such other and further relief as the court deems just and proper." The judge denied the temporary restraining order and injunction, stating that the coaches should have told the students of the rule at the beginning of the season.

So far, ASAA's attorney fees have exceeded \$4000. Because ASAA depends on dues from member schools and corporate donations, we try to minimize our expenses. As is a common practice in litigation, we asked our counsel to attempt to recover costs after a final judgment is reached. As predicted, this has met with stiff resistance from the plaintiffs.

Please be assured that ASAA is not out to punish students, nor are we using our financial resources in a frivolous manner. It was simply a matter of either enforcing our rule and therefore accepting the possibility of litigation, or of letting the team unfairly exceed the roster limit. Never once did Service High School request that ASAA increase the football roster limit.

We consistently strive to be sensitive to the needs of Alaska's high school students while continuing to promote and regulate interscholastic activities in a way that provides a level playing field for all 191 member schools throughout the state.

Please feel free to call me at your convenience if I may provide a further explanation of this unfortunate matter.

Respectfully yours,



ALASKA HOSPITALITY ALLIANCE

Representing Alaska's Finest
Accommodations • Restaurants • Beverage Operations & Hospitality Suppliers



Alaska Restaurant & Beverage Association

March 13, 2000

The Honorable Eldon Mulder
State Capital
Juneau, Alaska 99801

Dear Representative Mulder:

On behalf of the Alaska's Hospitality Industry, we would like to convey our support of House Bill No.42, Civil liability for improper litigation. As an industry trade association our goal is to develop and sustain a business environment in the state which allows the hospitality industry business the best opportunity to flourish. This type of legislation will allow the hospitality industry members protection against false or improper allegations by requiring the parties and their attorneys to be truthful and responsible in their pleadings.

We are pleased that you have taken the initiative to progress this legislation and will be happy to mobilize our membership in support of it. Please let us know what we can do.

Best regards,

Karen Rogina
Executive Vice President.

UNITED IN A COMMON GOAL TO MAKE ALASKA THE MOST HOSPITABLE PLACE ON EARTH!

MBA Consulting Engineers, Inc.

3812 Spenard Road, Suite 200 ■ Anchorage, Alaska 99517
(907) 274-2622 ■ Fax: (907) 274-0914
Email: mbacon@alaska.net

March 15, 2000

Representative Pete Kott
Fax Number: (907) 465-2819

Re: HB42 The Frivolous Lawsuit Protection Act

Dear Representative Kott:

House Bill 42, which has been introduced by Representative Eldon Mulder, will help prevent frivolous lawsuits. As a small business owner and a member of the NFIB, I support this bill. I request that you and the other members of the House Judiciary Committee support this bill also. Please call if I can be of further assistance.

Very truly yours,

MBA CONSULTING ENGINEERS, INC.



Ronald E. Aksamit
President

nit

cc: Thyges Shaub, NFIB, Fax Number: (907) 463-5128
Representative Eldon Mulder, Fax Number: (907) 465-3518

**Alaska Support Industry
ALLIANCE**

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Karen Cowart



THE ALLIANCE

... for responsible development of Alaska's Oil, Gas & Mineral Resources

February 28, 2000

Representative Eldon Mulder
Alaska State Legislature
Juneau, AK 99801-1182

RE: Support for Frivolous Lawsuit Prevention Act – House Bill 42

Dear Representative Mulder:

The Alaska Support Industry Alliance appreciates legislative efforts to address the escalating misuse of legal actions against responsible development in Alaska. If Alaska is to continue encouraging resource development, then the state must have an environment that is at least equitable and fair to investors, and certainly within our courts of law. We understand that House Bill 42 would require litigating parties to research their claims to assure accuracy, or pay the consequence of swing without just cause. The Alliance supports such measures.

Alaska has suffered significant economic losses as a few individuals successfully circumvent public processes through litigation. It seems that nearly every proposal or plan to develop the state's natural resources or to enhance its infrastructure is met with a lawsuit, regardless of whether there are reasonable grounds to sue. We believe many such legal actions only to serve to delay developments that are important to Alaskans' quality of life and our state's economic well being.

For two decades, The Alaska Support Industry Alliance (The Alliance) has served as the statewide non-profit trade organizations for businesses which provide products and services to the oil and gas industry. Our 350-plus members employ over 29,000 people in Alaska....25,000 are permanent residents of the state.

Thank you for the opportunity to provide the support industry's view on this issue.

Sincerely,

Karen Cowart
General Manager



**National Association
of Independent Insurers**

P. O. Box 24358, Federal Way, WA 98093-1358

MELVIN N. SORENSEN
ASSISTANT VICE PRESIDENT,
NORTHWEST REGIONAL OFFICE

February 24, 2000

The Honorable Eldon Mulder, Member
Alaska House of Representatives
Legislative Building
Juneau, AK 98011


RE: HB 42

Dear Rep. Mulder:

The National Association of Independent Insurers is a trade association of over 650 insurers who write property and casualty insurance coverage throughout the United States. Many NAII member companies are authorized to do business in the state of Oregon, and are active in the state. On behalf of the NAII and its member companies, I would like to take this opportunity to express our support for HB 42.

It should go without saying that lawyers who appear before the courts should be counted on to tell the truth. As officers of the court, lawyers take an oath that directly bears on truthfulness and the administration of justice. Lawyers who intentionally mislead the court should bear significant consequences. We believe that HB 42 goes to that proposition, and we support it for that reason.

Sincerely,


Melvin N. Sorensen

MNS

Anne Adasiak-Andrew

From: Anne Adasiak-Andrew
Sent: Monday, February 28, 2000 10:53 AM
To: 'Representative Eldon Mulder@legis.state.ak.us'
Subject: Support of HB42 (Frivolous Lawsuits)

Dear Representative Mulder,

I understand that there will be a hearing today on HB42. Therefore I wanted you to know that the AVA Board of Directors voted in support of this legislation at their last meeting in Juneau on February 18th.

As you know, AVA is a private, nonprofit statewide trade association representing all facets of the tourism industry. With over 500 member businesses, AVA is the largest, statewide visitor industry association representing the full spectrum of visitor industry business interests from large air and cruise lines to small localized rafting operators and wilderness guides. Since 90% of our members are small businesses having less than 10 employees, we see that a number of them would benefit from protection against frivolous lawsuits.

Sincerely,

Anne Adasiak-Andrew
Acting Executive Director
Alaska Visitors Association
907-531-5733ph
aadasiak@avanet.org

Subject: HB42

Date: Mon, 28 Feb 2000 14:39:02 EST

From: Flywma@aol.com

To: Representative_Eldon_Mulder@legis.state.ak.us,
Representative_Lisa_Murkowski@legis.state.ak.us,
Representative_Pete_Kott@legis.state.ak.us, Representative_Jeanette_James@legis.state.ak.us,
Representative_Joe_Green@legis.state.ak.us, Representative_Beth_Kertulla@legis.state.ak.us,
Representative_Eric_Croft@legis.state.ak.us

Dear Representatives:

I urge you to pass this legislation regarding frivolous lawsuits. Put some teeth in it while you are at it. It is long overdue.

Kelly Bay, President
Wrangell Mountain Air, Inc
McCarthy, Alaska 99588
907-554-4411



REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-Ft. RICHARDSON



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

Sponsor Statement

House Bill 42

The Frivolous Lawsuit Prevention Act

House Bill 42 will prevent frivolous lawsuits by requiring parties to the lawsuit and their attorneys to be truthful and responsible in their pleadings. This bill discourages false statements and claims in litigation and encourages responsibility by all parties and their attorneys. It requires more careful and focused preparation and presentation of pleadings.

This bill creates an obligation, in statute, for litigants and attorneys to make reasonable efforts to assure those claims have a probability of succeeding. If the claim is knowingly and recklessly false, both the attorney and the party can be assessed damages. Currently, there is no effective way of holding parties responsible for frivolous pleadings or claims. Frivolous pleadings and claims increase the costs of litigation for all the parties involved. They also increase the cost of our judicial system.

House Bill 42 requires attorneys as well as their clients to research their claims to assure they are factually supported before filing a lawsuit. This bill will eliminate "boiler plate" pleadings in lawsuits and encourages responsible and focused pleadings. "Boiler plate" pleadings include everything anyone could ever imagine could have happened rather than focusing on those specific issues that actually did happen. Those extraneous pleadings are expensive for innocent parties to litigate and work through and are most often thrown out. They simply cause one party, and the court system, to expend significant dollars to pare down to real issues.

Sponsor Statement

Many suits are often less expensive to settle than to litigate, regardless of their merit. This bill does not affect suits filed in good faith. It will, however, have a significant deterrent effect on those without merit. A system that allows deceit to be rewarded because it is more costly to litigate than to capitulate must be changed. This is not why we have and support a judicial system.

This bill assigns financial liability to those who:

- * File suits without sufficient probable cause,
- * Provide false information,
- * Use claims and cross claims to cloud the issues and
- * File unsuccessful claims on the hope of finding someone, somewhere willing to settle rather than spend the dollars to litigate the suit.

The trier of fact, usually a jury, will make the determination whether the untrue information presented was intentional and material. If honest errors are made, there will be no sanctions.

A jury can make these decisions and the deterrent effect of this bill will reduce those cases that are inappropriate without inhibiting the filing of cases believed to have merit.