

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10072 SENATE JUDICIARY

# FISCAL NOTE

719

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

**BILL NO. SB 21**

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Education</u>
Title <u>An Act relating to the adoption, amendment,</u>	BRU <u>Executive Administration</u>
<u>repeal, legislative review and judicial review of regulations;</u>	Component <u>State Board of Education</u>
Sponsor <u>Senator Donley</u>	
Requester <u>Senate Judiciary</u>	Component Serial No. <u>186</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	58.3	58.3	58.3	58.3	58.3	58.3
Travel	1.5	1.5	1.5	1.5	1.5	1.5
Contractual	20.0	20.0	20.0	20.0	20.0	20.0
Supplies	0.5	0.5	0.5	0.5	0.5	0.5
Equipment	7.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>87.8</b>	<b>80.3</b>	<b>80.3</b>	<b>80.3</b>	<b>80.3</b>	<b>80.3</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	87.8	80.3	80.3	80.3	80.3	80.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>87.8</b>	<b>80.3</b>	<b>80.3</b>	<b>80.3</b>	<b>80.3</b>	<b>80.3</b>

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time	1					
Part-time						
Temporary						

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

SB24 requires that the department prepare a cost benefit analysis of the costs to the public to comply with regulatory changes (adoption, amendment, repeal), and the benefits to the public from the proposed regulatory action. Expertise in preparing cost benefit analysis does not exist within the department. The legislation would require that a new economist position be established to complete this work. The fiscal note estimates the cost of an Economist I (R18) and contractual costs associated with legal services.

Prepared by <u>Karen J. Rehfeld</u>	Phone <u>465-8650</u>
Division <u>Education Support Services</u>	Date/Time <u>1/28/99 10:14 AM</u>
Approved by Commissioner	Date _____
Agency <u>Shirley J. Holloway, Ph.D.</u>	

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# FISCAL NOTE

#20

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

**BILL NO. SB 24**

Revision Date/Time (Note if correction)		Dept. Affected	Commerce & Econ Dev.
Title	An Act relating to the adoption ... of regulations;	BRU	Occupational Licensing
and amending Rule 202, AK Rules of Appellate Procedure		Component	Occupational Licensing
Sponsor	Senators Donley, Taylor		
Requester	Senate Judiciary	Component Serial No.	2360

**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	16.6	16.6	16.6	16.6	16.6	16.6
Travel						
Contractual	64.7	64.7	64.7	64.7	64.7	64.7
Supplies	0.2	0.2	0.2	0.2	0.2	0.2
Equipment	6.3					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>87.8</b>	<b>81.5</b>	<b>81.5</b>	<b>81.5</b>	<b>81.5</b>	<b>81.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	87.8	81.5	81.5	81.5	81.5	81.5
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>87.8</b>	<b>81.5</b>	<b>81.5</b>	<b>81.5</b>	<b>81.5</b>	<b>81.5</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

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

SB 24 requires a state agency to prepare a cost-benefit analysis of the costs to the public to comply with proposed regulation changes. The Division of Occupational Licensing, including the licensing boards and commissions within the division, proposes an average of 30 regulations projects each year. The projects vary widely in complexity and costs. In most cases, analyzing the costs and benefits to the public will include estimating the cost or value of factors such as public protection and professional practice standards.

(Continued on attached pages)

Prepared by Jennifer Strickler, Administrative Manager  
 Division Occupational Licensing  
 Approved by Commissioner Deborah B. Sedwick  
 Agency Commerce & Economic Development

Phone 465-2144  
 Date/Time 1/25/99 2:33 PM  
 Date 1/28/99

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 24

ANALYSIS: (Continued)

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS FOR SB 24

The Division of Occupational Licensing does not have an economist or other staff with the expertise to provide such a specialized analysis. To comply with SB 24, the division must contract with an economist. The division estimates that its 30 annual projects can be divided into three levels of complexity requiring three different levels of economic analysis, ranging from five to 20 hours each.

SB 24 also requires supplemental notice and public comment proceedings when an agency makes "significant changes" to a regulations proposal after the original public notice. The division estimates that 70 percent of its regulation projects will require supplemental notice and the majority of the renoticed projects will require an additional public hearing. Also, the licensing boards and commissions adopting the regulation changes will be required to hold additional public meetings by teleconference to conduct the hearings and take action on the proposals. The costs associated with these new requirements include newspaper advertising costs for the supplemental notices, postage and printing costs for distributing the supplemental notices, the costs of the teleconference meetings for the additional public hearings and board meetings, and a half-time clerk position to assume some of the routine duties of the regulations specialists so that the regulations specialist may handle the increased public notices, public hearings, and board meetings.

The estimated costs of complying with SB 24 are explained below:

### PERSONAL SERVICES

\$ 16.6

1 – Administrative Clerk I, Range 7, permanent part-time, Juneau

The new position will assume some of the routine duties of the existing regulations specialist in the division to allow the regulations specialists to spend additional time on public notices, regulation hearings, board meetings, and related tasks that are required as a result of SB 24.

### CONTRACTUAL

\$ 64.7

Costs for contractual services cover \$35.9 in costs to contract with an economist to prepare a cost-benefit analysis for each regulation project. The estimated contractual cost is based on a fee of \$97/hour and is broken down as follows:

- 10 projects each requiring 5 hours of analysis - \$ 4.9
- 10 projects each requiring 12 hours of analysis - \$11.6
- 10 projects each requiring 20 hours of analysis - \$19.4

Also covered are the costs of:

- publishing supplemental notices of regulations and board meetings - \$16.8
- duplicating supplemental notices - \$1.8
- postage for supplemental notices - \$4.7
- 15 additional teleconference board meetings - \$5.5

**SUPPLIES**

**\$ 0.2**

This is the estimated cost of envelopes, labels and miscellaneous supplies for mailing additional notices.

**EQUIPMENT**

**\$ 6.3**

This is a one-time cost for equipment and office set-up costs for the new half-time position.

**TOTAL:           \$ 87.8**

**FUND SOURCE:** The division anticipates funding to be provided by general fund/program receipts. The costs will be passed on to licensees in the form of increased licensing fees as required in AS 08.01.065.

# FISCAL NOTE

11-21

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

**BILL NO. SB 24**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Commerce & Economic Development  
 Title An Act relating to the adoption, amendment, repeal, BRU Insurance  
legislative review and judicial review of regulations. Component Insurance  
 Sponsor Senator(s) Donley and Taylor  
 Requester \_\_\_\_\_ Component Serial No. 354

**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	41.2	41.2	41.2	43.5	43.5	43.5
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>41.2</b>	<b>41.2</b>	<b>41.2</b>	<b>43.5</b>	<b>43.5</b>	<b>43.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**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	41.2	41.2	41.2	43.5	43.5	43.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>41.2</b>	<b>41.2</b>	<b>41.2</b>	<b>43.5</b>	<b>43.5</b>	<b>43.5</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The division has no economists on staff to provide the economic determinations required in this bill. The division will contract for this service. The division estimates an average cost of \$8,250.00 per regulation project, including supplemental notices. The division has averaged 5 regulation projects per year for the last two years. (\$8,250 x 5 = \$41,250.00)

The current procedures used by the division for developing regulations entail extensive upfront input from affected parties. The division utilizes a process of inviting interested parties to participate in drafting proposed regulations, drafts are circulated to interested parties, comments solicited and discussed. The final proposed regulation for the most part represents consensus of interested parties and the division. This approach greatly facilitates the hearing process, is cost efficient and fully participatory. The proposed legislation would erode and increase costs of the process.

Prepared by Marianne K. Burke, Director Phone 465-2515  
 Division Insurance Date/Time 1/27/99 2:45 PM  
 Approved by Commissioner Deborah B. Sedwick Date 1/28/99  
 Agency Commerce & Economic Development

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 24

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Commerce & Econ. Dev.  
 Title REGULATIONS: ADOPTION & JUDICIAL REVIEW BRU Banking, Securities and Corporations  
 Component Banking, Securities and Corporations  
 Sponsor Senators Donley & Taylor  
 Requester \_\_\_\_\_ Component Serial No. 1233

**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	39.0	39.0	39.0	39.0	39.0	39.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	39.0	39.0	39.0	39.0	39.0	39.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Many of our regulations are for fees and forms filing. Statutes mandate that fees collected must pay for the services provided. Some of our regulations are driven and supported by industry requests. Cost-benefit analyses would require the division to contract the services of an Economist. The division promulgates regulations on an average of three times per year. Passage of SB 24 would not add anything to the regulations process except adoption costs (cost benefit analysis fees) and potential litigation costs. Should the division have prove the validity of the regulations as identified in Section 44.62.300 Judicial review of validity, the division would be faced with legal expenses. The division operating expenditures above are based on an average of three regulations packages a year at 20 pages each, a cost of \$10,500 each or \$31,500 a year in cost benefit analysis fees as well as an estimate of \$7,500 for potential litigation costs.

Please see attached analysis for details on the above computations and explanation of expenses.

Prepared by Franklin T. Elder, Acting Director Phone 465-2521  
 Division Banking, Securities and Corporations Date/Time 1/28/99 11:03 AM  
 Approved by Commissioner Deborah B. Sedwick Date 1/28/99  
 Agency Commerce and Economic Development

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 24

Revisor Date/Time (Note if correction) _____	Dept. Affected <u>Office of the Governor</u>
Title <u>Relating to the adoption, amendment, repeal,</u>	BRU <u>Governmental Coordination</u>
<u>legislative review, and judicial review of regulations;</u>	Component <u>Governmental Coordination</u>
Sponsor <u>Senators Donley and Taylor</u>	
Requester <u>Judiciary, Finance</u>	Component Serial No. <u>18</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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	54.9	55.9	56.9	57.9	58.9	60.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>54.9</b>	<b>55.9</b>	<b>56.9</b>	<b>57.9</b>	<b>58.9</b>	<b>60.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	54.9	55.9	56.9	57.9	58.9	60.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>54.9</b>	<b>55.9</b>	<b>56.9</b>	<b>57.9</b>	<b>58.9</b>	<b>60.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

POSITIONS	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

Section 5 of the proposed legislation (AS 44.62) would place new regulatory requirements on the Division of Governmental Coordination, including evaluation of the economic effects of the proposed regulatory change. The Division has determined the most efficient way to meet the new requirements would be to contract with an economic consultant. The consultant would prepare a cost-benefit analysis of the proposed regulatory change. The fiscal impact to the Division is based on the average of three regulatory projects per year that would require one month of a consultant's time per project and Section 8 regarding supplemental notice and public proceedings. The inflation rate is based on current revenue forecasts.

Prepared by <u>Gabrielle LaRoche, Acting Director</u>	Phone <u>465-3562</u>
Division <u>Governmental Coordination</u>	Date/Time <u>1/28/99 11:13 AM</u>
Approved by <u>Jim Ayers, Chief of Staff</u>	Date <u>1/28/99</u>
Agency <u>Office of the Governor</u>	

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#24

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB24

Revision Date: \_\_\_\_\_ Dept. Affected: Office of the Governor  
 Title: "An Act relating to...review of regulations..." BRU: Commissions and Special Offices  
 Sponsor: Senator Donley Component: Human Rights Commission  
 Requester: Senate Judiciary COMPONENT SERIAL NO. 1

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	20.2	0.0	20.2	0.0	20.2	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>20.2</b>	<b>0.0</b>	<b>20.2</b>	<b>0.0</b>	<b>20.2</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**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	20.2	0.0	20.2	0.0	20.2	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>20.2</b>	<b>0.0</b>	<b>20.2</b>	<b>0.0</b>	<b>20.2</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

The Commission periodically enacts regulations. Section 44.62.036 and Section 44.62.200(a)(6) will require the agency to reach a determination on issues for which it does not have the expertise. The Commission would need the contractual services of an accountant, survey taker, and/or economist for two weeks to assist in providing the cost benefit analysis required in this subsections.

Prepared by: Paula M. Haley, Executive Director Phone: 276-7474  
 Division: Human Rights Commission Date: 11/25/99

Approved by Commissioner: Jim Avers, Chief of Staff Date: \_\_\_\_\_  
 Agency: Office of the Governor

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 24

Revision Date _____	Dept. Affected <u>Alaska Court System</u>
Title <u>The Alaska Regulations Reform Act</u>	PRU <u>Alaska Court System</u>
Sponsor <u>Sen. Donley</u>	Component <u>Trial Courts</u>
Requester <u>Senate Judiciary</u>	Component Serial No. <u>769</u>

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	52.9	52.9	52.9	52.9	52.9	52.9
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>52.9</b>	<b>52.9</b>	<b>52.9</b>	<b>52.9</b>	<b>52.9</b>	<b>52.9</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	52.9	52.9	52.9	52.9	52.9	52.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>52.9</b>	<b>52.9</b>	<b>52.9</b>	<b>52.9</b>	<b>52.9</b>	<b>52.9</b>

Estimate of any current year (FY99) cost: none

**POSITIONS**

Full-time						
Part-time	2	2	2	2	2	2
Temporary						

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

See attached fiscal analysis.

Prepared by: <u>Doug Wooliver, Administrative Attorney</u>	Phone: <u>264-8265</u>
Agency: <u>Alaska Court System</u>	Date/Time: <u>1/29/99 9:04 AM</u>
Approved by: <u>Stephanie J. Cole, Administrative Director</u>	Date: <u>1/29/99</u>
Agency: <u>Alaska Court System</u>	

Alaska Court System  
Fiscal Analysis  
SB 24  
The Alaska Regulations Reform Act

This bill reflects a significant change in the policies regarding the amendment or adoption of state agency regulations. Two areas in particular will have a fiscal impact on the court system. Under section 5 of the bill, all amendments to existing regulations and all newly adopted regulations must be accompanied by a cost-benefit analysis. Under section 13, if a regulation is challenged in court, the agency must prove that it accomplishes its purpose with the least intrusion possible on the rights and property of the persons affected. If the state cannot meet that standard then it must show a "compelling state interest" in the regulation that it did adopt. Both the cost-benefit requirement and the enhanced burden of proof will make it easier to challenge agency regulations in court and lead to an increase in court cases.

A cost benefit analysis is fertile ground for court challenges. It is much like an environmental impact statement in that it is relatively easy to allege that some factor or another was not considered or given proper weight. It is anticipated that this change will increase the number of challenges filed in court.

Likewise, because the enhanced burden of proof required by section 13 would significantly increase the likelihood of a successful challenge to any given regulation, the bill can be expected to significantly increase the number of challenges brought. Under current law, a regulation will be upheld as long as it has been properly adopted and is consistent with its authorizing statute. Senate Bill 24 raises that standard by requiring the state to prove that "the regulation accomplished its goal by using an approach that causes the least intrusion on the rights and property of the persons affected by the regulation." This is a significantly higher burden and one that is much more susceptible to challenge. If the agency cannot meet this burden then it must show that a "compelling state interest requires the approach taken by the regulation." The compelling state interest standard is very difficult to meet and it is likely that very few, if any, regulations would survive such scrutiny.

It is conservatively estimated that the court system currently sees a minimum of 20 regulatory review cases a year. It is estimated that the changes made by SB 24 will double that number to 40. This note assumes that the additional 20 cases will take an average of 5 days of judicial time (3-day trial with 2 more days for motions and record review). (No costs are figured for jurors, as these cases will be bench trials.)

Because these estimates are conservative, it is possible, even likely, that the number of challenges brought and the amount of judicial time required to resolve them will both be greater than assumed. If this is true, the court system may return to the legislature for additional funding.

This note does not include the costs associated with additional appeals to the supreme court and the costs associated with the lengthening of the regulatory challenges that the court currently sees.



# SENATOR DAVE DONLEY

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## ALASKA STATE LEGISLATURE

### SPONSOR STATEMENT FOR SENATE BILL 24 "THE ALASKA REGULATION REFORM ACT"

Senate Bill 24 reforms how administrative regulations are adopted by the state of Alaska and places reasonable new limits on the power of state bureaucracy to impose new regulations on Alaskans.

SB 24 increases opportunities for public notice and comment regarding adoption of regulations. SB 24 requires that new regulations pass a "needs" test and be drafted in a way to minimize their impact on personal liberties and property rights. The Board of Fisheries, Board of Game and the Alaska Commercial Fisheries Limited Entry Commission are exempt from these changes.

Regulations adopted by state agencies have the effect of law similar to statutes adopted by the legislature. The regulations adoption process however has very few of the safeguards and opportunity for public input that the legislative process has. Unlike statutes which require a series of public hearings in the state House and Senate, regulations can be adopted with a single notice and hearing which may or may not even reflect the actual content of the final version of the regulation.

Once adopted, state regulations can only be amended by the agency that adopted them or by the adoption of a statute that somehow directly conflicts with the regulation. This makes state regulations in Alaska very hard to amend or appeal once in place. Entrenched state bureaucrats, with little incentive to be responsive to the public, often have more real control over public policy through regulations than elected state officials.

Senate Bill 24 makes state regulators more accountable to the public and to elected officials. SB 24 places reasonable and needed restraints on the ever increasing number of state regulations Alaskans live with.

DD/hm

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238

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Vice-Chair, Senate Finance Committee • Chairman, Capital Budget Subcommittee •  
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council



**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

**SECTIONAL ANALYSIS  
FOR CS SENATE BILL 24  
"THE ALASKA REGULATIONS REFORM ACT"**

**Section #1** - refers to this act as "The Alaska Regulations Reform Act"

**Section #2** - in AS 44.62.030—*Consistency between regulation and statute*—a state agency may not adopt a regulation that changes the intent of the statute and 'clearly' (rather than the current word—'reasonably') necessary to carry out the purpose of the statute.

**Rationale:** the change from 'reasonably' to 'clearly' allows for less ambiguity in the way this statute can be interpreted, thus holding agencies to the original intent of the statutes for which they promulgate regulations.

**Section #3** - adds a new subsection to AS 44.62.030 which states that an agency cannot adopt a regulation that changes the intent of the statute. It places the burden of proof on the person challenging the regulation under this subsection, and does not allow for a temporary restraining order, preliminary injunction or a permanent injunction to enjoin the operation of a regulation.

**Rationale:** by placing the burden of proof on the person challenging the regulation; and by removing the ability to obtain a temporary restraining order, a preliminary injunction or a permanent injunction the use of this section to enjoin the operation of a regulation is meant to be deterred.

**Section #4** - requires that when a department adopts a regulation, an order of appeal, or an amendment to a regulation the department will submit a cost-benefit analysis of the costs of the regulatory action. The Department of Corrections, Board of Fisheries, Board of Game and the Alaska Commercial Fisheries Limited Entry Commission are exempt from this requirement.

**Rationale:** this would make each department justify that the fiscal benefit of a proposed regulatory action outweighs the cost to the public.

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Vice-Chair, Senate Finance Committee • Chairman, Capital Budget Subcommittee •  
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

**Section #5** - requires that before the adoption, amendment, or repeal of a regulation notice of the proposed action be published on the internet by agencies possessing the needed technological capability.

**Rationale:** under existing law a department is not required to utilise this affordable approach to publishing proposed regulation actions.

**Section #6** - adds a summary of the cost-benefit analysis to the other required information for a notice of proposed adoption, amendment, or repeal of a regulation.

**Rationale:** under existing law a department is required to include specific information when noticing a proposed regulatory action. If the department fails to provide a cost-benefit analysis or any other information required by law a court may declare the regulation invalid.

**Section #7** - deletes the word "original" from the statute regarding the content of the public notice of a proposed adoption of a regulatory action. This is a conforming change since the bill now allows supplemental notices.

**Section #8** - requires a department to provide a supplemental notice and the opportunity for additional public comment if the department rewrites a proposed regulatory action and the rewrite is significantly different in substance from the original regulatory action. This section does not include the Department of Corrections, Board of Fisheries, Board of Game and the Alaska Commercial Fisheries Limited Entry Commission.

**Rationale:** under existing law a department is only required to provide one notice to the public regarding a proposed regulatory action. However, the content of the proposed regulatory action could and often changes without the knowledge of the public. This provision would address this problem by alerting the public of any significant change and allow the public to provide additional testimony. This section exempts regulations promulgated by the Board of Game, Board of Fisheries, Alaska Commercial Fisheries Entry Commission or when emergency regulations are made permanent.

**Sections #9, 10, 11** - exempt the department from complying with the new provisions of this bill if the proposed regulations are necessary for the immediate preservation of public peace, health, safety or general welfare.

**Section #12** – places a time limit on the adoption of regulations. This new section requires a state agency to not take more than two years to adopt regulations that it is required to by statute. If the agency fails to comply, it must prepare and submit a written report on the reasons for its failure to adopt the regulations to the senate president, speaker of the house and the Administrative Regulation Review Committee.

**Rationale:** this section addresses the issue of state agencies taking too long to promulgate regulations for new statutes.

**Section #13** - adds additional provisions, except for the Department of Corrections, Board of Fisheries, Board of Game and the Alaska Commercial Fisheries Limited Entry Commission, that the court must consider in determining the validity of a regulation including new requirements that:

- 1) the regulation uses an approach that causes the least intrusion on the rights and property of the persons affected; or
- 2) a compelling state interest requires using the approach taken by the regulation.

**Rationale:** forces a department to not intrude on the rights and the property of persons affected when adopting a regulation except in those cases where the department can prove that a compelling state interest requires such an action.

**Section #14** – places time limits on administrative adjudications. This section requires administrative adjudication to result in an appealable decision by a deadline of the later of two possible dates (60 days after the hearing officer closes the record or two years after the adjudication is begun).

**Rationale:** these limits are created in order to curtail state agency's from taking too long to adjudicate cases.

**Section #15** – a technical section to address the applicability of the various bill sections.

**Section #16** – addresses the need to change Rule 65 of the Alaska Rules of Civil Procedure in order to comply with sec. 3 of this Act.

**Section #17** - provides for the effective date of this legislation—July 1, 2000.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

ADMINISTRATIVE ORDER NO. 157

I, Tony Knowles, Governor of the State of Alaska, under the authority vested in me by art. III, secs. 1 and 24, of the Alaska Constitution, order all executive branch agencies to comply with the directives set out in this Order regarding administrative regulations, in order to accomplish the following objectives:

- achieve clear and concise language, and "plain English," in administrative regulations so that customers of state services are better able to understand and comply with the regulations;
- promote a better relationship between the Legislature, executive branch agencies, and the public that they serve;
- make the regulation-adoption process more accessible and understandable to the general public;
- minimize the cost to the public of complying with state regulations; and
- encourage state agencies to work with the regulated public to meet the objectives of agency regulations.

AGENCY DIRECTIVES

1. Public notices regarding regulation changes, including repeals of existing regulations, should include statements that describe:

- ▶ what is being changed;
- ▶ how it is being changed; and
- ▶ why it is being changed.

2. In public notices regarding regulation changes:

8. After a regulation change has been filed by the Lieutenant Governor's Office, the adopting agency, to the extent economically feasible, shall use newspaper or broadcast media press releases, or mailings, to inform the public of the filing and impending effective date of the regulation change.

9. To better respond to inquiries from the public regarding regulations projects, each commissioner shall institute an internal agency system for maintaining, in a centralized manner, current information regarding pending agency regulations projects. As part of such a system:

- ▶ each commissioner shall designate a staff person within the agency to serve as the general regulation information contact person for that agency;
- ▶ each commissioner shall direct agency staff to provide to the contact person information necessary to develop and maintain a current list of that agency's pending regulations projects;
- ▶ at the time it opens a regulation file, the Department of Law shall provide to the appropriate agency regulation contact person a copy of the file-opening information; and
- ▶ each commissioner shall ensure that that agency's pending regulation project list contains adequate and accurate information, including a sufficient description of each project and the name and phone number of the agency staff person who can provide more specific information about the project.

10. Each adopting agency immediately shall submit a plan to the Governor for a process of reviewing, in consultation with the Department of Law, its existing regulations for the purpose of identifying, within budget constraints, provisions to be amended or repealed because:

- ▶ the provision contains confusing or unnecessarily technical language; the use of "plain English" is the standard that should be achieved whenever possible;
- ▶ the cost to the regulated public is excessive when compared to the state's interest in or benefit from the particular requirement; and
- ▶ the requirements of the provision are burdensome to the regulated public and less burdensome requirements still would allow the agency to carry out its statutory responsibilities.

11. The Department of Law shall, to the extent economically feasible, provide, through its own staff or through others, training to appropriate staff of executive branch agencies regarding:

# CORRECTION

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



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

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**AGENCY DIRECTIVES**

1. Public notices regarding regulation changes, including repeals of existing regulations, should include statements that describe:

- ▶ what is being changed;
- ▶ how it is being changed; and
- ▶ why it is being changed.

2. In public notices regarding regulation changes:

- ▶ minimize the use of technical terms not generally understood by the public;
- ▶ use "plain English" in describing the regulatory action;
- ▶ strive for clarity and clean, concise language;
- ▶ name a specific agency contact person for requesting information about the regulation project, including information regarding special accommodations for persons with a disability; and
- ▶ actively solicit comments from the affected public on the cost of compliance with the proposed regulation.

3. When drafting regulations, each agency shall consider known and potential costs to the public of complying with the regulations and, to the extent possible, shall draft the regulations so as to minimize those costs.

4. When preparing the public notice for regulation changes, the adopting agency shall consider whether, because of the nature and effect of the regulation changes, the agency should hold one or more oral public hearings on the changes, in addition to providing for written comments on the changes. In deciding whether to hold oral hearings, the agency shall consider both its budget and the possibility of using teleconferencing.

5. In determining an appropriate length of time for the public comment period for a set of regulations, the adopting agency shall consider:

- ▶ the special needs or concerns of those likely to be affected by the regulations;
- ▶ whether the anticipated comment period is sufficient for the public to obtain a copy of, review, and comment on the regulations;
- ▶ the urgency of the regulations project; and
- ▶ the overall time frame for the regulations project.

6. At the time of publishing a public notice regarding regulation changes, each adopting agency shall provide for additional newspaper or broadcast media press releases, or mailings to affected persons, to the extent that action is economically feasible, in order to ensure maximum public awareness of the agency action.

7. In maintaining mailing lists of persons interested in agency regulations, each agency shall periodically review the lists to ensure that, to the extent possible, the lists represent the broadest spectrum of interested persons as well as persons likely to be affected by the agency's regulations.

8. After a regulation change has been filed by the Lieutenant Governor's Office, the adopting agency, to the extent economically feasible, shall use newspaper or broadcast media press releases, or mailings, to inform the public of the filing and impending effective date of the regulation change.

9. To better respond to inquiries from the public regarding regulations projects, each commissioner shall institute an internal agency system for maintaining, in a centralized manner, current information regarding pending agency regulations projects. As part of such a system:

- ▶ each commissioner shall designate a staff person within the agency to serve as the general regulation information contact person for that agency;
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10. Each adopting agency immediately shall submit a plan to the Governor for a process of reviewing, in consultation with the Department of Law, its existing regulations for the purpose of identifying, within budget constraints, provisions to be amended or repealed because:

- ▶ the provision contains confusing or unnecessarily technical language; the use of "plain English" is the standard that should be achieved whenever possible;
- ▶ the cost to the regulated public is excessive when compared to the state's interest in or benefit from the particular requirement; and
- ▶ the requirements of the provision are burdensome to the regulated public and less burdensome requirements still would allow the agency to carry out its statutory responsibilities.

11. The Department of Law shall, to the extent economically feasible, provide, through its own staff or through others, training to appropriate staff of executive branch agencies regarding:

- ▶ handling of public information requests regarding regulation projects, including the requirements of the public records law;
- ▶ ways to improve the language of public notices regarding regulation changes, so that the notices are more understandable and meaningful to the public while still meeting legal requirements;
- ▶ ways to improve regulation writing, so that draft regulations that are distributed to the public for comment are clearer, in "plain English," and adequately and accurately describe the agency's intent;
- ▶ the requirements of the Americans With Disabilities Act regarding accommodations that might be required in order for persons with a disability to be able to participate in the regulatory process; and
- ▶ the requirements for collecting and seriously considering all public comments received during the public comment period for a regulation project.

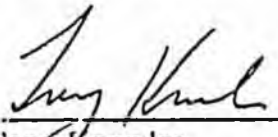
12. Each commissioner shall take appropriate steps to ensure that the agency focuses its efforts on educating and otherwise working with the public so that the public is better able to comply with regulatory requirements in a cost-effective manner and avoid inadvertent noncompliance.

13. Each commissioner shall take appropriate steps to inform federal agencies of state concerns in proposed federal regulations and to suggest changes so that federal regulations are not overly burdensome for Alaskans.

14. If state agencies have overlapping regulatory responsibilities regarding business activities, the commissioners of those agencies shall ensure that the agencies work together to achieve, to the extent possible, regulatory requirements that avoid duplication while facilitating compliance with statutory requirements.

This Order takes effect immediately.

DATED at Juneau, Alaska, this 5 day of June, 1995.

  
\_\_\_\_\_  
Tony Knowles  
Governor

## **SB 101 -- REGULATIONS: ADOPTION & JUDICIAL REVIEW**

CHAIRMAN TAYLOR explained SB 101 makes fairly sweeping changes to the current regulatory process. It requires that a cost-benefit analysis be prepared before regulations are adopted, limits the effective period of emergency regulations, and provides for judicial review of the validity of regulations. He noted he supports the concept but does not know whether it is enforceable.

JOHN LINDBACK, testifying on behalf of the Lieutenant Governor's Office, the designated lead agency on legislation affecting the regulatory process, gave the following overview of the history and streamlining process that has occurred. Administrative Order 157 was issued in January of 1995. That order changed the way regulations are promulgated by using plain English, making the process more user friendly, and taking cost into account. Last

February agencies were required to submit a follow-up report on how they are complying with Administrative Order 157. The report shows that most agencies have set up a regular review of all regulations; for some agencies the task is much more time consuming than for others. Additionally, the Administration introduced SB 155 a week ago, which attempts to make the regulatory process more public-friendly. It allows for an automatic update for corporations, and more public friendly advertising of regulations. The Administration plans to launch a regulations home-page on the Internet which will allow the user to view all regulations in every agency. He offered to provide committee members with more comprehensive information on the current regulatory process and anticipated changes.

### ***Number 216***

DEBORAH BEHR, Department of Law, testified that SB 101 makes dramatic changes to the regulatory process. She made the following comments on the bill.

Sections 5 and 6 deal with a cost benefit analysis on regulations. This concept is not new; in 1995, Representative Kelly introduced HB 130 which eventually became law. It was based on this same concept and the fiscal notes were very high. State law was changed to require state agencies to pay special attention to the costs to private parties. During the public comment period, the agencies are asked to actively solicit costs of compliance and every newspaper ad asks for such information. DEC is now required, under HB 130, to consider alternative means of accomplishing the same goals.

Ms. Behr said that after reviewing SB 101, she has come to the conclusion that the cost-benefit analysis is a very expensive provision, especially to get the precision that is necessary to stand up in court. She is concerned about battles with experts, and the cost of hiring economists to defend regulations. In the case of the timber sale contracts, the DOL attorney in charge indicated it would be virtually impossible to get a timber sale contract that would stand up to a court test. The benefit to the public of leaving a tree standing or cutting it down would have to be determined. The bill contains no definition of the word "public." It could be the people in a community, the State of Alaska, or the United States. The new welfare reform program will require a lot of new regulations. It is difficult to

determine whether the costs should be based on the short or long term impact. Regulations projects may require more than one financial analysis.

The Board of Fish deals with 900 regulations proposals each year. The way SB 101 is written, it is not clear whether the cost-benefit analysis is supposed to occur when the regulation is noticed up, or at the time the Board adopts the regulation. If the Department of Fish and Game had to do a cost-benefit analysis on 900 proposals, the cost would be extremely prohibitive. Additionally, it might change the way the Board of Fish operates. That Board has a very democratic process and allows anyone to fill out a proposal book. Each proposal is noticed up so that anyone can comment. It would be very difficult to cost benefit some of these ideas. Printing the summary in newspaper ads will be very expensive. The Department of Fish and Game did a cost benefit analysis on a regulation in the past and estimated it took over 1 ½ years and cost over \$150,000.

Ms. Behr noted SB 101 is written to cover all administrative agencies. The Department of Corrections does regulations on discipline of prisoners. In order for DOC to adopt regulations it will have to do a cost benefit analysis to the public on whether or not the benefits of that prison disciplinary scheme outweigh the cost of implementation. The potential for frivolous litigation in that arena is high.

Ms. Behr discussed the difficulties of doing cost benefit analyses on the benefits of public safety, i.e. the benefits of requiring sex offender registration. DPS would not be able to sign off on a regulation unless it could prove that the benefits of registration outweigh the costs.

In light of Alaska's constitutional right of privacy, Ms. Behr pointed out that some of the cost information to private parties will be inaccessible. She recently assisted the Board of Dentistry in establishing a regulation pertaining to use of laser equipment by dental hygienists, which the Board felt was inappropriate. In order for the Board to establish the same regulation under SB 101, cost benefit information from dentists regarding how much time each dental employee has used laser equipment would be required. Many dentists may consider that proprietary business information and refuse to supply it. In addition, the issue of regulating mail or telephone access for prisoners would be problematic.

### ***Number 325***

Ms. Behr said her opinion is that SB 101 is a good idea that may have unintended consequences. During a time when the Legislature is trying to downsize state government, anyone could challenge that approach by suing anytime a regulation is promulgated on the basis that the cost benefit analysis was insufficient. She again referred to problems with the timber sale contracts. Promulgating emergency regulations would also be problematic. In order for an emergency regulation to become permanent, it can only be out for 120 days and an economic analysis that would stand up in court cannot be completed in that time. SB 101 would severely stifle an important part of the Procedures Act which is to respond to crises when the Legislature is not in session.

Ms. Behr questioned how one would do a cost benefit analysis of a fee regulation because the cost to an individual person and benefits to the public would have to be determined.

Ms. Behr thought this approach might be productive if applied to large projects only but not to regulations that have a minimal impact, such as raising copying costs a few cents. She also suggested exempting federal regulations and particular departments from the requirements of SB 101 . She noted the average business person would only do a cost benefit analysis on large projects. Ms. Behr discussed the next major change in SB 101 ; supplemental notices for significant changes of regulations. If an agency notices up a regulation for a fee increase from \$50 to \$100, and then, after the first set of hearings determines a more appropriate amount to be \$75, the agency would have to solicit a whole new round of public comments. Newspaper notices would be required, and if a board or commission is involved, it would have to meet again resulting in travel and per diem costs. The new public comment could produce different results and the procedure would have to occur again. She repeated her concern that in the attempt to downsize state government and raise fees, anyone who wants to challenge that approach could do so by challenging the cost benefit analysis. She explained that after the Legislature adjourns in May, state agencies will need to implement new regulations based on changes in law, for example welfare reform. They will be required to hold a public comment period and adopt regulations with a cost benefit analysis by July 1.

The third major change in SB 101 is the standard of review used by the court to review regulations. Section 7 contains the current standard used by judges to invalidate regulations: for substantial failure to comply with the APA; on constitutional grounds; or for equal protection rights violations. SB 101 changes the standard of review so that there will be a presumption of invalidity. To be valid, a regulation will have to be the least intrusive to the rights of persons or property affected by the regulations. There are many areas where this standard will create problems, such as with prison discipline regulations. A prisoner could sue on the new standard based on the possibility that a lesser punishment could be used. If the State could not defend the regulation based on that standard, it would have to prove a compelling State interest which would be virtually impossible to do.

Ms. Behr repeated her concerns that SB 101 will have unintended consequences and may result in a lot of frivolous litigation. She discussed a final change that could occur if SB 101 passes. Significant changes to regulations can be tested in District Court therefore, oil tax regulations could be brought before a District Court judge at the same time the judge is hearing cases about a child smoking underage or a driver who failed to remove studded snow tires. Once the case goes to District Court, it could be directly appealed to the Supreme Court. This will create a dramatic policy change.

Ms. Behr noted two technical problems with SB 101 . Section 4 does not include all state agencies, and excludes the Office of the Governor, which does regulations on telecommunications and elections, and the University of Alaska which has procurement regulations.

#### **Number 410**

SENATOR DONLEY , sponsor of SB 101 , explained SB 101 is an expansion of legislation proposed in past years. He tried to exempt agencies and areas in which additional restrictions would be inappropriate. The Boards of Fish and Game are exempted on page 4, as well as things that result from federal requirements. He

acknowledged there may be other areas, such as natural resources and the timber sale contracts mentioned by Ms. Behr, that may be appropriate to exempt. He also suggested removing the language on page 3, lines 5-7, because of problems identified by Ms. Behr. That deletion would still require departments to use the procedure for informational purposes, but not to use it as the standard for adopting a regulation, thereby preventing that standard from being used as the basis for a challenge in court. That would enable departments to use procedures appropriate for the level of seriousness of the regulation, such as raising the cost of copying fees.

SENATOR DONLEY noted that he intended the section on notices on page 4 to apply to all provisions of the bill.

SENATOR PARNELL noted he was also concerned about the language on page 3, lines 5-7. CHAIRMAN TAYLOR suggested forming a subcommittee of Senator Donley, department staff, and any interested committee members to work on the legislation and bring a committee substitute before the committee for further review.

#### ***Number 451***

SENATOR DONLEY stated he has not found departments to be cooperative regarding this bill. He discussed the problem of notice in the regulatory process, and stated one has to balance the value of having the Executive Branch do immediate regulations without appropriate public input against the advantages of providing for expeditious regulations when necessary. He stated he believes it is clearly appropriate that the Executive Branch give the public notice of its intentions.

SENATOR PARNELL asked Senator Donley why he chose to include District Courts in addition to the Superior Court on page 6. SENATOR DONLEY replied he would like to increase the public's ability to challenge more regulations because such a wide scope of regulations exist now. He thought the challenge of some regulations would be appropriate for District Court, for others the Superior Court. SENATOR PARNELL agreed but thought if the District Court's jurisdiction is under \$50,000, it is not appropriate for a case involving millions of dollars in oil taxes to be resolved there. SENATOR DONLEY agreed and suggested changing the way the bill applies to revenue regulations.

#### ***Number 476***

SENATOR ELLIS asked whether the District Court has any equitable jurisdiction right now. CHAIRMAN TAYLOR answered it does not. SENATOR ELLIS asked if the Legislature is seeking to change that. SENATOR DONLEY replied it would be struck down on the basis of fact.

CHAIRMAN TAYLOR thought that would fall under the equity jurisdiction because it would require someone to do an act, as opposed to pay money damages. That distinction limits one's ability to get access to the bench. If the focus was on jurisdiction limits, twice the number of judges would be available for adoptions and juvenile matters and it would not take two or three years to get on a court calendar.

SENATOR DONLEY said he would be satisfied if the bill required agencies to provide subsequent public notices before adopting things that were subsequently different.

CHAIRMAN TAYLOR commented he introduced a bill three years ago that would require, that before an agency proposed a regulation or before a federal regulation was adopted, the department to report the cost of the federal mandate. That bill was vetoed by the Governor.

**Number 497**

JACK KREINHEDER , Office of Management and Budget (OMB), summarized the fiscal notes. The grand total of the fiscal notes is in excess of \$1.6 million with the largest impact being on the Departments of Environmental Conservation, Natural Resources, Law and Commerce and Economic Development. The amendment offered to the cost benefit analysis provision may remove some court challenges, however even if that is true, promulgating regulations correctly is a complex process. He stated he is reluctant to advocate legislation with the idea that departments are going to pay lip service to it and provide a one-page cost benefit analysis that is not worth the paper it is written on. He supported Ms. Behr's comments that the benefit of any regulation should exceed the cost, but the effort devoted toward determining dollar figures, for cost, compliance and benefits should be devoted to making a better regulation. CHAIRMAN TAYLOR asked Mr. Kreinheder to work with Senator Donley's staff to improve the approach. He adjourned the meeting at 4:55 p.m.

Senate  
97

**SJUD**

04/21/97

1330

**SENATE JUDICIARY COMMITTEE**

April 21, 1997

1:30 p.m.

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 119(JUD)

"An Act raising the limit on small claims actions to \$7,500; amending Rule 9, Alaska Rules of Administration; and providing for an effective date."

**THE SENATE JUDICIARY COMMITTEE HEARING ON APRIL 21,  
1997 WAS**

**CANCELLED.**

Senate  
97

Post-It® Fax Note	7671	Date	1/29	# of pages	1
To	Senator Taylor	From	Pamela La Bolle		
Co./Dept.	Judiciary Committee	Phone #	ASCC		
Phone #		Phone #	586-2323		
Fax #	465-3922	Fax #			

Headquarters:  
217 2nd Street, Suite 201  
Juneau, Alaska 99801  
(907) 586-2323 FAX 463-5515



January 22, 1999

Senator Dave Donley  
Alaska State Legislature  
State Capitol, Room 508  
Juneau, AK 99801-1182

Dear Senator Donley:

We are pleased that you have introduced Senate Bill 24, "The Alaska Regulations Reform Act".

Reform of the present regulatory system is one of the highest priorities of the Alaska State Chamber of Commerce. Our resolution on this matter asks the legislature and the administration to create a regulatory and economic environment supportive of business development that encourages business to locate and grow in Alaska. ASCC's resolution also asks the legislature and the administration to provide for an effective oversight mechanism to assure that regulations are producing effective results that follow legislative intent.

We support the current version, "A" of SB 24 which provides the Legislature with decennial oversight of regulations, and requires a public comment period before final regulations are adopted. We would be happy to provide verbal testimony on SB 24 during the committee process. Please let us know of any other help we might provide in this matter.

Sincerely,

*Pamela La Bolle*

Pamela La Bolle  
President

**SB**

**25**

# FISCAL NOTE

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

**BILL NO. SB 25**

Revision Date/Time (Note if correction)		Dept. Affected	Law
Title	"An Act relating to sentences for misdemeanors."	BRU	Criminal Division
Sponsor	Senator Leman	Component	1st-4th Judicial Districts; Criminal Appeals/Special Lit
Requester	Senate Judiciary Committee	Component Serial No.	2198/99/2261/79/01/03

**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	224.6	224.6	224.6	224.6	224.6	224.6
Travel	0.8	0.8	0.8	0.8	0.8	0.8
Contractual	39.0	39.0	39.0	39.0	39.0	39.0
Supplies	3.4	3.4	3.4	3.4	3.4	3.4
Equipment	19.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>287.3</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	287.3	267.8	267.8	267.8	267.8	267.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>287.3</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>

Estimate of any current year (FY99) cost:

**POSITIONS**

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

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

SB 25 would require that a third conviction for a violent misdemeanor within 10 years be sentenced as a class C felony. The misdemeanor would have to be prosecuted as if it were a felony in order for the enhanced sentence to apply. Felony prosecutions are much more difficult and costly than misdemeanor prosecutions. For example, felony charges require a grand jury indictment, which misdemeanors do not, and a 12 person jury rather than a six person jury.

Approximately 3,500 violent misdemeanor offenses are currently prosecuted in a calendar year. 1,200 of those prosecutions occur in rural areas, and 2,300 in urban areas. The department estimates that 10 percent of the rural cases would be a third violent misdemeanor offense, and 5 percent of the urban cases, for a total of 235 new felony prosecutions statewide.

Prepared by	Joan M. Kasson <i>Joan M. Kasson</i>	Phone	465-5370
Division	Attorney General's Office	Date/Time	3/8/99, 8:18 AM
Approved by Commissioner	<i>Kathryn...</i> <i>Brake M. Botelho</i> , Attorney General	Date	3/8/99
Agency	Department of Law		

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ANALYSIS CONTINUATION

In order to handle this new felony caseload, the department would need to add one new attorney position in Anchorage, and one in Bethel. (Bethel currently has more assault misdemeanor convictions than any other place in Alaska.)

Based on the Civil Division's FY00 standard full-time equivalent attorney cost schedule (\$133,926), which includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses, the cost of 2 FTE attorneys is \$267,852. In addition, \$6,500 per position for one-time equipment purchases is added, as these costs are outside the rate.

While clerical support funding is included in the cost schedule, position authorization and one-time equipment costs are separate. The total PFT estimate thus includes one permanent full-time Legal Secretary I position, and the equipment line includes \$6,500 for the position's required new equipment.

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 25

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Department of Corrections  
 Title An Act relating to sentences for misdemeanors. BRU Administration and Operations  
 Component All  
 Sponsor Senator Leman  
 Requester Senate Judiciary Committee Component Serial No. #0694

**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	180.0	180.0	180.0	180.0	180.0	180.0
Travel						
Contractual	3.7	3.7	3.7	3.7	3.7	3.7
Supplies	1.5	1.5	1.5	1.5	1.5	1.5
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous	1,376.0	1,376.0	1,376.0	1,376.0	1,376.0	1,376.0
<b>TOTAL OPERATING</b>	<b>1,567.2</b>	<b>1,561.2</b>	<b>1,561.2</b>	<b>1,561.2</b>	<b>1,561.2</b>	<b>1,561.2</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,567.2	1,561.2	1,561.2	1,561.2	1,561.2	1,561.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>1,567.2</b>	<b>1,561.2</b>	<b>1,561.2</b>	<b>1,561.2</b>	<b>1,561.2</b>	<b>1,561.2</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

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

See attached analysis.

Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date/Time 3/8/99 11:05 AM  
 Approved by Con. Margaret M. Pugh *Margaret M. Pugh* Date 3/8/99  
 Agency Department of Corrections

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FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION  
DEPARTMENT OF CORRECTIONS

BILL NO. SB 25  
PAGE 2 of 2  
DATE 3/8/99

If passed Senate Bill 25 will amend the sentencing requirements for people who within the previous ten years are convicted of three or more violent misdemeanors as defined in section 2. If convicted the Court will be required to sentence the person as a class C felon.

The Dept. of Law is estimating 235 new felony cases per year. This will result in a substantial impact for the Dept. of Corrections. Being sentenced as a felon will not only result in longer sentences, it will also require probation supervision of misdemeanants, a service the DOC does not currently provide. In addition, DOC will be required to provide a pre-sentence investigation report (PSI) to the court for sentencing.

235 inmates X 60 days of incarceration X \$97.62= \$1,376,442

3 New probation officers a year to handle the new caseload = \$180,000

3 Computers @ 2000 = \$6, 000 (one time cost)

Office Supplies = \$500 each per year = \$1500 annually

Contractual Services (communication, postage, etc..) = \$1250 each per year = \$3,750 annually

Total cost per year = \$1,561,692

The Dept. of Corrections believes this to be conservative number of cases per year. The Anchorage Municipal Prosecutor has stated that he believes there will be 1000 new felony cases from Anchorage alone. DOC has not included this estimate in the fiscal note but may revise it upwards after further analysis.

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 25

Revision Date: \_\_\_\_\_  
Title: "An Act relating to sentences for misdemeanors..."

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency

Sponsor: Senator Leman  
Requestor: (S) JUD

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	572.3	572.3	572.3	572.3	572.3	572.3
TRAVEL	23.8	23.8	23.8	23.8	23.8	23.8
CONTRACTUAL	116.1	116.1	116.1	116.1	116.1	116.1
SUPPLIES	14.4	14.4	14.4	14.4	14.4	14.4
EQUIPMENT	58.5	5.8	5.8	5.8	5.8	5.8
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>785.1</b>	<b>732.4</b>	<b>732.4</b>	<b>732.4</b>	<b>732.4</b>	<b>732.4</b>

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

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

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	785.1	732.4	732.4	732.4	732.4	732.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>785.1</b>	<b>732.4</b>	<b>732.4</b>	<b>732.4</b>	<b>732.4</b>	<b>732.4</b>

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

**POSITIONS:**

FULL-TIME	8	8	8	8	8	8
PART-TIME	1	1	1	1	1	1
TEMPORARY						

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

See attached.

Prepared by: Barbara Brink, Director  
Division: Public Defender Agency  
Approved by Commissioner: Robert Poe *Alison M. Ely*  
Agency: Department of Administration

Phone: (907) 264-4414  
Date: \_\_\_\_\_  
Date: 3/8/99

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This bill would require a criminal defendant to be "sentenced as if convicted of a class C felony" if he or she has two prior "violent misdemeanors" within the last ten years.

There is no question that this bill would have a significant fiscal impact on the Public Defender Agency. However, it is difficult to accurately assess the exact impact because of the following factors.

First, although the Agency knows it had over 8,500 state misdemeanor cases in FY98, we are unable to tell how many of these clients had two qualifying misdemeanors in the past 10 years. We have to count on a significant portion of these 8,500 cases turning into more difficult and complex felony prosecutions, but the exact percentage is difficult to determine.

Second, there are many municipal misdemeanor prosecutions that would turn into state prosecutions if this bill is passed. The Anchorage municipal prosecutor's office estimates that there are probably 1,000 municipal prosecutions in Anchorage that would become felonies. Felony prosecutions would have to be handled by the Department of Law. The defendants, if they qualified, would be entitled to representation at state expense.

Third, the bill states that a defendant is sentenced "as if convicted" of a felony. However, the state would have to treat a prosecution under this bill as a felony from the beginning. If the defendant is deemed "convicted" of a felony and has a prior felony conviction, there will be a two-year presumptive sentence. If there are two prior felonies, the presumptive is four years. With an actual felony conviction and presumptive sentences at stake, the bill would have a greater impact.

The Public Defender Agency estimates that at least 20% of our 8,500 misdemeanors would qualify as "violent misdemeanors" under the bill. We further estimate that 20% of those defendants would have at least two prior violent misdemeanors within the past 10 years. Therefore, we estimate that in 340 cases we would be representing the defendants in felony rather than misdemeanor cases. Based on nationally recognized caseload standards, we would need an additional 1.5 attorneys to represent these clients. (This estimate takes into account the attorney that would have been able to handle this caseload as misdemeanors.) These attorneys would be placed outside of Anchorage. One attorney would be needed in Bethel. A half-time attorney would be hired in Palmer.

However, this only estimates the effect of current state prosecutions. In addition to these cases, the Public Defender Agency estimates that 1,000 cases currently prosecuted as municipal misdemeanors would be prosecuted as state felonies under this bill. If we are appointed in 75% of these cases, we will have 750 new felony cases. We will need an additional 5 attorneys to represent clients in these cases. (We would not have represented any of these defendants in our current misdemeanor caseload.) The 5 attorneys plus necessary clerical support (2 secretaries) would be in Anchorage.



# SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189  
Web Site: <http://www.akrepublicans.org/Leman.htm>

Session: State Capitol, Juneau, AK 99801 (907) 465-2095  
Email: [Senator\\_Loren\\_Leman@legis.state.ak.us](mailto:Senator_Loren_Leman@legis.state.ak.us)

## Sponsor Statement - SB 25

### "An Act relating to sentences for misdemeanors."

Senate Bill 25 requires a defendant convicted of a violent misdemeanor to be sentenced as if convicted of a class C felony, if the defendant has been previously convicted of two or more violent misdemeanors within the previous 10 years.

Violent misdemeanors involve threats of violence or offenses which by their nature lead to violence, including assault in the fourth degree, reckless endangerment, stalking in the second degree, sexual abuse of a minor in the fourth degree, resisting arrest, violating a protective order, misconduct involving weapons in the fourth and fifth degrees, respectively.

It is common for violent offenders to repeatedly commit misdemeanor offenses (maximum sentence of one year imprisonment) and thereby avoid the stiffer sentences associated with class C felonies (maximum sentence of five years). It is also common to have felonious offenses reduced to misdemeanor charges through the plea bargaining process. Senate Bill 25 sends a clear message to such offenders that the state will not tolerate violence as a means of settling disputes, especially in the area of domestic violence offenses. It will also give prosecutors an additional tool to keep truly dangerous offenders off the streets.

Prepared by Mike Pauley, Staff Aide to Senator Loren Lemman (465-3841)

Last updated: February 2, 1999

# Alaska Association of Chiefs of Police



February 25, 1999

MAR 02 1999

Senator Loran Leman  
State Capitol  
Juneau, AK 99801

Dear Senator Leman:

This letter is written in support of SB 25, an Act relating to sentences for misdemeanors. It is time to address certain types of crime that, while misdemeanors, are no less traumatic to victims than felony crimes.

Law enforcement arrests defendants on a regular basis who have committed violent crimes that are classed as misdemeanors. A criminal history check will often reveal that the same defendant has been arrested in the past for other violent misdemeanors. We support this effort to increase the penalties for defendants convicted of two or more violent misdemeanors within the previous ten years. Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script, reading "Duane S. Udland".

Duane S. Udland, President  
Alaska Association of Chiefs of Police

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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Senator Leman  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801-1182

February 19, 1999

Dear Senator Leman,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 25.

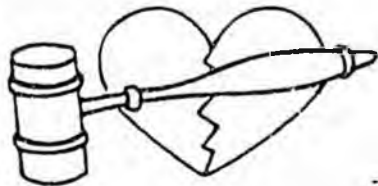
Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau  
State President  
Alaska Peace Officers Association

## VICTIMS



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

MAR 02 1999

February 24, 1999

Loren Leman  
State Capitol Suite 520  
Juneau, Ak 99801

Dear Senator Leman:

Victims for Justice is writing in support of SB 25, which is an act relating to sentences for misdemeanors. A defendant who is repeatedly convicted of a violent misdemeanor should pay a stiffer penalty. In a domestic violence relationship this would create additional safety for the victim as the violator would be contained longer. In serious cases the prosecutors would have additional tools to keep truly dangerous offenders away from the victim and off the streets.

Sincerely,

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

Janice Lienhart

ler the forfeiture to the agency of a deadly weapon luring the commission of

33.20, when a defendant sentence consists of two less than two-thirds of the ed release on mandatory rm of imprisonment; the nent and on supervised )

urt shall order a person ple, oral sample, or both, i under AS 44.41.035 to ested by a health care or samples.

§ 11.81.900. (§ 12 ch 166 am § 3 ch 72 SLA 1985; § 1 ch 79 SLA 1994; am 29 SLA 1996; am § 2 ch m § 3 ch 116 SLA 1998)

and added the last two sen- 7 t, effective August 13, 1997,

ment, effective June 13, 1998, ) and made a related stylistic

ndment, effective September ion (h).

ment, effective September 17, dded the paragraph (1) des- graph (2).

ection 15, ch. 95, SLA 1998 enactment of subsection (b) :mitted before, on, or after

reports. — For report on ch. SSB 511), see 1980 Senate . 44, (Mny 29, 1980) or 1980 ent, No. 79, (May 29, 1980).

utorily vested in either the cutive branch of government. court lacks jurisdiction to after it has entered a judg- re than 60 days after it has port v. State, 543 P.2d 1204 v. State, 572 P.2d 63 (Alaska

s ope of sentencing pow- t to attend a sexual offender hile incarcerated, where the eparate provision of the t as a condition of probation, by the order could not have r a finding of criminal con-

tempt. Benboe v. State, 738 P.2d 356 (Alaska Ct. App. 1987).

Test to be used in determining whether multi- ple offenses can be punished separately. — See State v. Occhipinti, 562 P.2d 348 (Alaska 1977).

Separate sentences were called for where de- fendant's conduct in kidnapping and raping his victim and assaulting her with a deadly weapon constituted the commission of three distinct offenses, each of which violated a different societal interest. State v. Occhipinti, 562 P.2d 348 (Alaska 1977).

Power to suspend sentence. — While courts do not have the inherent power to suspend execution of a sentence, the legislature has given this power to the trial courts. Curtis v. State, 831 P.2d 359 (Alaska Ct. App. 1992).

When a statute of general application grants sen- tencing courts the power to suspend all or part of a

sentence, that statute will govern unless the legisla- ture specifically provides otherwise. Curtis v. State, 831 P.2d 359 (Alaska Ct. App. 1992).

Applied in Austin v. State, 627 P.2d 657 (Alaska Ct. App. 1981).

Quoted in Leuch v. State, 633 P.2d 1006 (Alaska 1981); Hancock v. State, 706 P.2d 1164 (Alaska Ct. App. 1985); State v. Wagner, 835 P.2d 454 (Alaska Ct. App. 1992).

Stated in Kimbrell v. State, 647 P.2d 618 (Alaska Ct. App. 1982); Erhart v. State, 656 P.2d 1199 (Alaska Ct. App. 1982).

Cited in Whittlesey v. State, 626 P.2d 1066 (Alaska 1980); Juneby v. State, 641 P.2d 823 (Alaska Ct. App. 1982); Lacquement v. State, 644 P.2d 856 (Alaska Ct. App. 1982); Schneck v. State, 739 P.2d 1310 (Alaska Ct. App. 1987); State v. Ambrose, 758 P.2d 639 (Alaska Ct. App. 1988).

Collateral references. — Permissibility of sen- tence to a fine only, under statutory provision for imprisonment or imprisonment and fine. 35 ALR4th 192.

Sec. 12.55.020. Enforcing judgment to pay money. [Repealed, § 21 ch 166 SLA 1978. For present provisions, see AS 12.55.025(f), AS 12.55.035(a), (d) and AS 12.55.051.]

Sec. 12.55.022. Victim impact statement. As part of the presentence report pre- pared on each felony offender, the probation officer shall prepare a victim impact statement reporting the following information:

- (1) the financial, emotional, and medical effects of the offense on the victim;
- (2) the need of the victim for restitution; and
- (3) any other information required by the court. (§ 1 ch 154 SLA 1984)

Cross references. — For effect of this section on Cr. R. 32(d)(2), see § 12, ch. 154, SLA 1984 in the Temporary and Special Acts.

Sec. 12.55.023. Participation by victim in sentencing. (a) If a victim requests, the prosecuting attorney shall provide the victim, before the sentencing hearing, with a copy of the following portions of the presentence report:

- (1) the summary of the offense prepared by the Department of Corrections;
- (2) the defendant's version of the offense;
- (3) all statements and summaries of statements of the victim; and
- (4) the sentence recommendation of the Department of Corrections.

(b) A victim may submit to the sentencing court a written statement that the victim believes is relevant to the sentencing decision, and may give sworn testimony or make an unsworn oral presentation to the court at the sentencing hearing. If there are numerous victims, the court may limit the number of victims who may give sworn testimony or make an unsworn oral presentation during the hearing. (§ 4 ch 59 SLA 1989; am § 6 ch 57 SLA 1991)

Effect of amendments. — The 1991 amendment, effective September 15, 1991, in subsection (b), added "and may give sworn testimony or make an unsworn oral presentation to the court at the sentencing hearing" to the end of the first sentence and added the second sentence.

Sec. 12.55.025. Sentencing procedures. (a) When imposing a sentence for convic- tion of a felony offense or a sentence of imprisonment exceeding 90 days or upon a conviction of a violation of AS 04, a regulation adopted under AS 04, or an ordinance adopted in conformity with AS 04.21.010, the court shall prepare, as a part of the record, a sentencing report that includes the following:

(1) a verbatim record of the sentencing hearing and any other in-court sentencing procedures;

(2) findings on material issues of fact and on factual questions required to be determined as a prerequisite to the selection of the sentence imposed;

(3) a clear statement of the terms of the sentence imposed; if a term of imprisonment is imposed, the statement must include

(A) the approximate minimum term the defendant is expected to serve before being released or placed on mandatory parole if the defendant is eligible for and does not forfeit good conduct deductions under AS 33.20.010; and

(B) if applicable, the approximate minimum term of imprisonment the defendant must serve before becoming eligible for release on discretionary parole;

(4) any recommendations as to the place of confinement or the manner of treatment; and

(5) in the case of a conviction for a felony offense, information assessing

(A) the financial, emotional, and medical effects of the offense on the victim;

(B) the need of the victim for restitution; and

(C) any other information required by the court.

(b) The sentencing report required under (a) of this section shall be furnished within 30 days after imposition of sentence to the Department of Law, the defendant, the Department of Corrections, the state Board of Parole if the defendant will be eligible for parole, and to the Alcoholic Beverage Control Board if the defendant is to be sentenced for a conviction of a violation of AS 04, a regulation adopted under AS 04, or an ordinance adopted under AS 04.21.010.

(c) Except as provided in (d) and (e) of this section, when a defendant is sentenced to imprisonment, the term of confinement commences on the date of imposition of sentence. A defendant shall receive credit for time spent in custody pending trial, sentencing, or appeal, if the detention was in connection with the offense for which sentence was imposed. A defendant may not receive credit for more than the actual time spent in custody pending trial, sentencing, or appeal. The time during which a defendant is voluntarily absent from official detention after the defendant has been sentenced may not be credited toward service of the sentence.

(d) A sentence of imprisonment shall be stayed if an appeal is taken and the defendant is admitted to bail. If an appeal is taken and the defendant is not admitted to bail, the Department of Corrections shall designate the facility in which the defendant shall be detained pending appeal or admission to bail.

(e) Except as provided in (g) and (h) of this section, if the defendant has been convicted of two or more crimes, sentences of imprisonment shall run consecutively. If the defendant is imprisoned upon a previous judgment of conviction for a crime, the judgment shall provide that the imprisonment commences at the expiration of the term imposed by the previous judgment. Nothing in AS 12.55.125(a) or (l) limits the court's ability to impose consecutive sentences.

(f) A sentence that the defendant pay money, either as a fine or in restitution or both, constitutes a lien in the same manner as a judgment for money entered in a civil action. Nothing in this section limits the authority of the court to otherwise enforce payment of a fine or restitution.

(g) If the defendant has been convicted of two or more crimes before the judgment on either has been entered, any sentences of imprisonment may run concurrently if

(1) the crimes violate similar societal interests;

(2) the crimes are part of a single, continuous criminal episode;

(3) there was not a substantial change in the objective of the criminal episode, including a change in the parties to the crime, the property or type of property right offended, or the persons offended;

(4) the crimes were not committed while the defendant attempted to escape or avoid detection or apprehension after the commission of another crime;

other in-court sentencing

questions required to be  
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type of property right

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(5) the sentence is not for a violation of AS 11.41.100 — 11.41.470; or

(6) the sentence is not for a violation of AS 11.41.500 — 11.41.530 that results in physical injury or serious physical injury as those terms are defined in AS 11.81.900.

(h) If the defendant has been convicted of two or more crimes under AS 11.41.200 — 11.41.250 or 11.41.410 — 11.41.458 in which the victim or victims of the crimes were minors and the judgment on any of the convictions has not been entered, the court shall impose some consecutive period of imprisonment for each conviction.

(i) Except as provided by AS 12.55.125(a)(3), 12.55.125(k), 12.55.145(d), 12.55.155(f), and 12.55.165, the preponderance of the evidence standard of proof applies to sentencing proceedings.

(j) The approximate minimum terms provided under (a)(3) of this section in the sentencing report are for information purposes only. The approximate minimum terms are not part of the sentence imposed and do not form a basis for review or appeal of the sentence imposed or provide a defendant with a right to any specific term of imprisonment or supervised release on mandatory parole. (§ 12 ch 166 SLA 1978; §§ 7, 8 ch 131 SLA 1980; am §§ 24, 25 ch 143 SLA 1982; am E.O. No. 55, §§ 6, 7 (1984); am § 2 ch 154 SLA 1984; am §§ 5, 6 ch 66 SLA 1988; am §§ 21, 22 ch 79 SLA 1992; am § 2 ch 7 SLA 1996; am §§ 3, 4 ch 37 SLA 1997; am § 13 ch 81 SLA 1998)

**Cross references.** — For the effect of the 1997 amendments on Rule 32.2, Alaska Rules of Criminal Procedure, see § 6, ch. 37, SLA 1997 in the 1997 Temporary and Special Acts.

**Effect of amendments.** — The 1992 amendment, effective September 14, 1992, added the last sentence in subsection (e) and added subsection (i).

The 1996 amendment, effective June 27, 1996, inserted "or (l)" in the last sentence in subsection (e).

The 1997 amendment, effective August 13, 1997, in paragraph (a)(3), added "if a term of imprisonment is imposed, the statement must include" at the end of the introductory language and added subparagraphs (A) and (B); and added subsection (j).

The 1998 amendment, effective June 11, 1998, made a section reference substitution in subsection (h).

**Legislative history reports.** — For sectional analysis of CS SSSB 239, the predecessor of FCCSSB 239 (ch. 131, SLA 1980), see 1980 Senate Journal Supplement No. 23, April 1, 1980.

For House letter of intent on ch. 66, SLA 1988 (CSHB 237 (Jud)), which amended this section, see 1988 House Journal 2330-2337.

**Opinions of attorney general.** — Authority exists to both award and forfeit statutory good time for pretrial detainees. February 18, 1986 Op. Att'y Gen.

## NOTES TO DECISIONS

I. General Consideration.

II. Computation of Term.

III. Consecutive Sentences.

IV. Concurrent Sentences.

### I. GENERAL CONSIDERATION.

**For cases construing former AS 12.55.075,** relating to imposition of sentences, see *Perrin v. State*, 543 P.2d 413 (Alaska 1975); *Andrews v. State*, 552 P.2d 150 (Alaska 1976); *Morgan v. State*, 582 P.2d 1030 (Alaska 1978); *Rust v. State*, 582 P.2d 134 (Alaska 1978).

**Consideration of totality of defendant's conduct.** — Regardless of the trial court's decision to sentence consecutively or concurrently, the total sentence must reflect the totality of the defendant's conduct considered in light of his or her background and experience, and measured against the standards of rehabilitation, deterrence of self and others, and affirmation of community norms. *Comegys v. State*, 747 P.2d 554 (Alaska Ct. App. 1987).

**Consideration of uncharged offenses or police contacts.** — A sentencing court may properly consider uncharged offenses or police contacts where they are verified by supporting data or information and the defendant is given the opportunity to deny the allegations and offer rebuttal evidence. *Pascoe v. State*, 623 P.2d 547 (Alaska 1980).

Reference to unverified police contacts in a presentence report does not require a remand for resentencing where the record indicates that the sentencing judge was not unduly or improperly influenced by reference to the unverified police contacts. *Pascoe v. State*, 628 P.2d 547 (Alaska 1980).

**Effect of perjury at trial.** — It is improper to increase a sentence because a defendant has committed perjury at trial, but the fact of such perjury may be considered as relevant to the defendant's prospects for rehabilitation. *La Pierre v. State*, 626 P.2d 1065 (Alaska 1980).

**Oral sentence controls.** — The written judgment should conform to the oral sentence. The latter ordinarily controls. *Whittlesey v. State*, 626 P.2d 1066 (Alaska 1980).

**Unsolicited letters.** — Judges must make available to counsel for the state and the defendant any unsolicited letters received concerning sentencing of a particular defendant. *Bowlin v. State*, 643 P.2d 1 (Alaska Ct. App. 1982).

The sentencing record must affirmatively reflect whether unsolicited letters received by the court have

of composite sentence for first offender where defendant's separate offenses were not particularly mitigated, the court held that the sentence was not particularly mitigated. *Jerrel v. State*, 851 P.2d 1165 (Alaska Ct. App. 1993), cert. denied, 510 U.S. 1077 (1994).  
 An exception to the Austin rule regarding the evidence standard should be made for the rule in *Austin v. State*, 627 P.2d 657 (Alaska Ct. App. 1981), which held that a sentence for a first offender convicted of offenses for which a term is specified should be more favorable than the corresponding sentences than the second offender. *Long v. State*, 772 P.2d 1099 (Alaska Ct. App. 1989).

ing to a probation violation is not a standard governing the evidence standard should be established by clear and convincing evidence, not merely a preponderance of the evidence. *Long v. State*, 772 P.2d 1099 (Alaska Ct. App. 1989).

ing evidence" standard did not apply to a first offender. The standard governing the evidence standard should be established by clear and convincing evidence, not merely a preponderance of the evidence. *Long v. State*, 772 P.2d 1099 (Alaska Ct. App. 1989).

proper. — The defendant's sexually assaultive conduct, his past failure to seek rehabilitation, the nature of the defendant's offense, and the fact that in effect amounted to a plea bargain, were not factors to be considered in sentencing. *Carroll v. State*, 835 P.2d 1251 (Alaska Ct. App. 1996).

lished by preponderance of the evidence. Hence, the preponderance of the evidence should be factored into the sentencing of the defendant. *Carroll v. State*, 835 P.2d 1251 (Alaska Ct. App. 1996).

tin rule. — Where a defendant convicted of a crime is a minor, and, had the

defendant been subject to presumptive sentencing, the circumstances would have been sufficiently extraordinary to warrant a substantial increase in the applicable presumptive term, the case qualified as an exceptional one under *Austin v. State*, 627 P.2d 657 (Alaska Ct. App. 1981); and the imposition of a sentence in excess of the four-year presumptive term for second offenders did not violate the Austin rule. *Skrepich v. State*, 740 P.2d 950 (Alaska Ct. App. 1987).

First felony offender's sentence of four years imprisonment, with three years suspended, was substantially more lenient than the two-year presumptive term that would have been applicable to a second felony offender, and therefore did not violate the Austin rule. *Long v. State*, 772 P.2d 1099 (Alaska Ct. App. 1989).

Sentence of defendant with no prior criminal convictions to consecutive terms of four years with one year suspended and one year with six months suspended for two second-degree assaults and to a concurrent term of one year with nine months suspended for a third-degree assault, a composite term of five years with one and one-half years suspended was more favorable than the corresponding second offense presumptive term for the individual offenses and was not excessive. *Splain v. State*, 924 P.2d 435 (Alaska Ct. App. 1996).

Applied in *Adams v. State*, 927 P.2d 751 (Alaska Ct. App. 1996).

Cited in *Howarth v. State*, Pub. Defender Agency, 925 P.2d 1330 (Alaska 1996).

Collateral references. — Use of prior military conviction to establish repeat offender status, 11 ALR5th 218.

Sec. 12.55.135. Sentences of imprisonment for misdemeanors. (a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than one year.

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 90 days unless otherwise specified in the provision of law defining the offense.

(c) A defendant convicted of assault in the fourth degree that is a crime involving domestic violence committed in violation of the provisions of an order issued or filed under AS 12.30.027 or AS 18.66.100 — 18.66.180 and not subject to sentencing under (g) of this section shall be sentenced to a minimum term of imprisonment of 20 days.

(d) A defendant convicted of assault in the fourth degree who knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the assault shall be sentenced to a minimum term of imprisonment of

- (1) 60 days if the defendant violated AS 11.41.230(a)(1) or (2);
- (2) 30 days if the defendant violated AS 11.41.230(a)(3).

(e) [See delayed amendment note.] If a defendant is sentenced under (c), (d), or (h) of this section,

- (1) execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served;
- (2) imposition of a sentence may not be suspended except upon condition that the defendant be imprisoned for no less than the minimum term of imprisonment provided in the section; and
- (3) the minimum term of imprisonment may not otherwise be reduced.

(f) A defendant convicted of vehicle theft in the second degree in violation of AS 11.46.365(a)(1) shall be sentenced to a definite term of imprisonment of at least 72 hours but not more than one year.

(g) A defendant convicted of assault in the fourth degree that is a crime involving domestic violence shall be sentenced to a minimum term of imprisonment of

- (1) 30 days if the defendant has been previously convicted of a crime against a person or a crime involving domestic violence;
- (2) 60 days if the defendant has been previously convicted two or more times of a crime against a person or a crime involving domestic violence, or a combination of those crimes.

(h) [Effective January 1, 1999.] A defendant convicted of failure to register as a sex offender or child kidnapper in the second degree under AS 11.56.840 shall be sentenced to a minimum term of imprisonment of 35 days.

(i) If a defendant is sentenced under (g) of this section,

(1) execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served;

(2) imposition of sentence may not be suspended;

(3) the minimum term of imprisonment may not otherwise be reduced.

(j) In this section,

(1) "crime against a person" means a crime under AS 11.41, or a crime in this or another jurisdiction having elements similar to those of a crime under AS 11.41;

(2) "crime involving domestic violence" has the meaning given in AS 18.66.990. (§ 12 ch 166 SLA 1978; am § 2 ch 139 SLA 1980; am § 22 ch 59 SLA 1982; am § 13 ch 61 SLA 1982; am § 31 ch 143 SLA 1982; am §§ 4, 5 ch 92 SLA 1983; am §§ 5, 6 ch 53 SLA 1991; am § 3 ch 6 SLA 1996; am § 14 ch 64 SLA 1996; am §§ 5, 6 ch 71 SLA 1996; am §§ 8, 9 ch 86 SLA 1998; am §§ 3, 4 ch 106 SLA 1998)

**Delayed amendment.** — Before January 1, 1999, subsection (e) does not contain a reference to subsection (h).

**Revisor's notes.** — Subsection (h) was enacted as (g). Relettered in 1998, at which time the cross-reference in subsection (e) was conformed.

Subsections (i) and (j) were enacted as (h) and (i), respectively. Relettered in 1998.

**Cross references.** — For legislative findings and purpose in connection with the enactment of subsection (f), see §§ 1 and 2, ch. 53, SLA 1991 in the Temporary and Special Acts.

**Effect of amendments.** — The 1991 amendment, effective September 13, 1991, rewrote subsection (e) and added subsection (f).

The first 1996 amendment, effective June 27, 1996, in subsection (d), substituted "who knowingly directed the conduct constituting the offense at" for "upon," "correctional employee" for "correctional officer," and paragraphs (1) and (2) for "30 days."

The second 1996 amendment, effective July 1, 1996, in subsection (c), inserted "or filed" and "or issued

under former" and inserted section references.

The third 1996 amendment, effective June 20, 1996, in the introductory language in subsection (e), deleted "Except as provided in AS 12.55.055(f)," from the beginning and ", or (f)" following "(d)" and made related stylistic changes and rewrote subsection (f).

The first 1998 amendment, effective June 13, 1998, rewrote subsection (c) and added subsections (g), (i), and (j).

The second 1998 amendment, effective January 1, 1999, inserted a subsection reference and made minor stylistic changes in subsection (e) and added subsection (h).

**Editor's notes.** — Section 7, ch. 6, SLA 1996 provides that the 1996 amendment to (d) of this section applies "to all offenses committed on or after June 27, 1996."

Section 22(c), ch. 86, SLA 1998 provides that with respect to the 1998 enactment of subsections (g), (i), and (j), "[r]eferences to previous convictions in this Act apply to all convictions occurring before, on, or after June 13, 1998."

## NOTES TO DECISIONS

**Constitutionality of presumptive sentencing provisions.** — See notes under same heading, AS 12.55.125. *Nell v. State*, 642 P.2d 1361 (Alaska Ct. App. 1982).

**Maximum sentence for joyriding justified.** — The district court judge was not clearly mistaken in characterizing a defendant as a worst offender, and in imposing the maximum sentence of one year for third-degree criminal mischief (joyriding). Despite the limited period of time in which the defendant committed the offenses, the defendant's record, coupled with the especially serious nature of the particular joyriding offenses, i.e., that it was committed in order to perpetrate a felony, justifies the sentence imposed. *Plant v. State*, 724 P.2d 536 (Alaska Ct. App. 1986).

**Sentence upheld.** — Composite sentence of 24 months with six months suspended for refusal to submit to a chemical breath test and for driving with a suspended operator's license was affirmed where the defendant had five prior driving while intoxicated convictions and at least four prior driving with suspended license convictions and was on probation for a prior driving while intoxicated and driving with sus-

pended license conviction. *Witt v. State*, 692 P.2d 976 (Alaska Ct. App. 1984).

**Consecutive sentencing by district court permissible under former law.** — See *State v. Pete*, 420 P.2d 338 (Alaska 1966), decided under former AS 11.05.010.

**Sentence disapproved.** — Trial court's sentencing decision was clearly mistaken where the sentence fell near the bottom of the authorized range of sentences for fourth-degree assault and the evidence concerning defendant's background and personal characteristics provided little basis for characterizing his case as particularly mitigated, including two prior misdemeanor convictions. *State v. Huletz*, 838 P.2d 1257 (Alaska Ct. App. 1992).

The sentencing court did not find defendant's prospects for rehabilitation particularly favorable, or that her conduct was in any respect less serious than normal for a class B felony, or that insubstantial harm resulted, yet the total sentence received was palpably more lenient than the norm for similarly situated offenders. In the absence of actual conflict among the goals, emphasizing a single sentencing goal can never

**SB**

**26**

# FISCAL NOTE

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

**BILL NO. SB 26**

Revision Date/Time (Note if correction)		Dept. Affected	Law
Title	"An Act relating to providing false information or reports to a peace officer."	BRU	Criminal Division; Civil Division
Sponsor	Senator Leman	Component	1st-4th Judicial Districts; Criminal Appeals/Special Lit; Human Services
Requester	Senate Judiciary Committee	Component Serial No.	2198/99/2261/79/01/03/08

**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						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

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

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

**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)						
<b>TOTAL</b>	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

SB 26 would make it a class C felony to knowingly give false information concerning a person's identity to a peace officer while that person is under arrest or detention for a felony or being served a warrant for a felony offense. The penalty for the same offense while under arrest or detention for a misdemeanor would be a class A misdemeanor.

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 *Bruce M. Botelho*  
 Agency Department of Law

Phone 465-5370  
 Date/Time 3/8/99, 9:06 AM  
 Date 3/8/99

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 26

Revision Date: \_\_\_\_\_  
Title: "An Act relating to providing false information..."

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency

Sponsor: Senator Leman  
Requestor: (S) JUD

COMPONENT SERIAL NO. 1631

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	30.5	30.5	30.5	30.5	30.5	30.5
TRAVEL	1.8	1.8	1.8	1.8	1.8	1.8
CONTRACTUAL	8.5	8.5	8.5	8.5	8.5	8.5
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	6.5	.6	.6	.6	.6	.6
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>48.3</b>	<b>42.4</b>	<b>42.4</b>	<b>42.4</b>	<b>42.4</b>	<b>42.4</b>

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

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

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	48.3	42.4	42.4	42.4	42.4	42.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>48.3</b>	<b>42.4</b>	<b>42.4</b>	<b>42.4</b>	<b>42.4</b>	<b>42.4</b>

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

**POSITIONS:**

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

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

See attached.

Prepared by: Barbara Brink, Director  
Division: Public Defender Agency  
Approved by Commissioner: Robert Poe  
Agency: Department of Administration

Phone: (907) 264-4414  
Date: \_\_\_\_\_  
Date: 3/8/99

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This bill amends a current misdemeanor statute, Making a False Report, AS 11.56.800. Under the bill there would be two criminal offenses: a class C felony and a class A misdemeanor. The title of the new offenses would be False Information or Report in the First and Second Degree. The current Making a False Report statute outlaws giving false information with intent to implicate someone else in a crime. It also outlaws a variety of other false reports, such as falsely reporting crimes, fires, etc. The new misdemeanor statute (False Information or Report in the Second Degree) retains all the language of the current statute, and, in addition, makes providing any false information concerning one's identity unlawful if the defendant is arrested or detained for a misdemeanor. The bill's new class C felony statute (False Information or Report in the First Degree) outlaws providing false information concerning one's identity if the defendant is being arrested or detained on a felony.

This bill will have a fiscal impact on the Public Defender Agency. It is difficult to determine the exact impact because of a number of factors. However, the Agency does know that, in a significant percentage of arrests, defendants give false information concerning their identities. We conservatively estimate that defendants give false identity information in 2% of our cases.

We are appointed to represent defendants in about 3,200 new felonies and 8,500 misdemeanors a year. The Public Defender Agency does not know how many of its current 8500 misdemeanors include Making a False Report charges. These charges are often brought in addition to other charges. Defendants are often, but not always, being arrested on other charges when they try to implicate someone else.

If 2% of the defendants give false identity information, we would have 64 new felony charges and 170 new misdemeanor charges. However, we have to take into account that other charges would be brought in many of these cases and about 1% of the current caseload includes misdemeanors where Making a False Report is the major charge. Therefore, subtracting 1% of the misdemeanors and estimating that False Information charges would be a major factor in only half of the cases, the Public Defender Agency would need one additional half-time attorney to deal with the additional workload.

We would place this half-time attorney in Anchorage.

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO: SB 26

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Department of Corrections  
 Title An Act relating to providing false information BRU Administration and Operations  
 or reports to a peace officer. Component All  
 Sponsor Senator Leman  
 Requester Senate Judiciary Component Serial No. #0694

**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						
<b>TOTAL OPERATING</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: 0.0

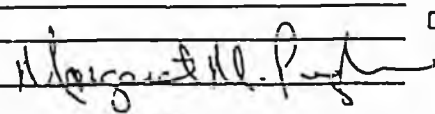
**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Section 1 of SB 26 will create the crime of False Information or Report in the 1st degree. The penalty for this new crime is a class C felony which carries a penalty of zero to five years. The Dept. of Corrections is unable to estimate how many new prisoners will be incarcerated for this new crime. Due the narrow construction of the bill, it is anticipated that few people will be charged and convicted prompting the Dept. of Corrections to submit an indeterminate fiscal note.

Section 2 of SB 26 amends the current crime of making a false report to False Information or Report in the 2nd degree. The crime is a class A misdemeanor which carries a penalty of zero to one year.

Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date/Time 3/8/99 7:59 AM  
 Approved by Comm. Margaret M. Pugh  Date 3/8/99  
 Agency Department of Corrections

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO.                      SB 26

Revision Date \_\_\_\_\_ Dept. Affected Alaska Court System  
 Title False Information / report to police officer BRU Alaska Court System  
 Component Trial Courts  
 Sponsor Sen. Leman  
 Requester Senate Judiciary Component Serial No. 769

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

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						
<b>TOTAL OPERATING</b>	.	.	.	.	.	.

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: None

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)* SB 26 makes it a class C felony for a person to provide false identity information to a peace officer if that person is under arrest or detention or being served a warrant for a felony offense. Although this bill may have a fiscal impact on the Alaska Court System, there is insufficient data available to assess the extent of that impact. However, should the impact prove to be significant, the court system may return to the legislature for funding.

Prepared by: Doug Wooliver, Administrative Attorney Phone: 264-8265  
 Agency: Alaska Court System Date/Time: 3/5/99 2:33 PM

Approved by: Stephanie J. Cole, Administrative Director Date: 3/5/99  
 Agency: Alaska Court System

# FISCAL NOTE

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

**BILL NO: SB 26**

Revision Date: March 4, 1999 Dept. Affected: Public Safety  
 Title: An Act relating to providing false information or reports to a peace officer. BRU: Fish and Wildlife Protection  
 Component: Detachments  
 Sponsor: Senator Leman  
 Requestor: S.Judiciary COMPONENT SERIAL NO. \_\_\_\_\_

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

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

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

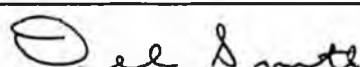
Estimate of current year (FY 99) impact: \$ -0-

**POSITIONS:**

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

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

This bill does not significantly impact our budget.

Prepared By: Lieutenant Howard R. Starbard Phone: 746-9107  
 Division: Fish and Wildlife Protection Date: March 4, 1999  
 Approved by Commissioner:  Date: 3-8-99  
 Agency: Ronald L. Otte, Department of Public Safety

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**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 1/19/99

FURTHER: Finance

Date of 5-Day Notice: 3-4-99  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered

SENATE BILL NO. 26

"An Act relating to providing false information or reports to a peace officer."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 26 (Jud)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Stoyum</i>	✓				
<i>Rick Halford</i>	✓				
CHAIR: <i>Chris L. Taylor</i>	✓	CHAIR:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

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

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

**BILL NO. CSSB 26(JUD)**

Revision Date 3/30/2000 Dept. Affected Public Safety  
 Title An act relating to providing false information or reports to a peace officer. BRU AST - Detachments  
 Component: AST - Detachments  
 Sponsor Senator Leman  
 Requester Senate Finance Committee Component No. 2325

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

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>						

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>


Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

This bill would not impact our budget.

Prepared by: Royce Weller, Special Assistant Phone 465-4322  
 Division Office of the Commissioner Date/Time 3/30/2000  
 Approved by:  Date 3/30/00  
 Agency Commissioner Ronald L. Otte, Dept. of Public Safety

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1-LS0119\H  
Luckhaupt  
3/16/00

*adopted  
3/27/00  
amended  
passed out*

CS FOR SENATE BILL NO. 26( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS LEMAN, Donley

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to hindering prosecution and to providing false information or  
2 reports to a peace officer."

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

4 \* Section 1. AS 11.56.780(a) is amended to read:

5 (a) A person commits the crime of hindering prosecution in the second degree  
6 if the person renders assistance to another who has committed a crime punishable as  
7 a misdemeanor [BY IMPRISONMENT FOR MORE THAN 90 DAYS], with intent  
8 to

9 (1) hinder the apprehension, prosecution, conviction, or punishment of  
10 the other person; or

11 (2) assist the other person in profiting or benefiting from the  
12 commission of the crime.

13 \* Sec. 2. AS 11.56.800 is amended to read:

14 Sec. 11.56.800. False information or [MAKING A FALSE] report. (a) A

- 1 person commits the crime of [MAKING A] false information or report if the person
- 2 (1) knowingly [(1)] gives false information to a peace officer with the
- 3 intent of implicating another in a crime;
- 4 (2) knowingly makes a false report to a peace officer that a crime has
- 5 occurred or is about to occur;
- 6 (3) knowingly makes a false report or gives a false alarm that a fire
- 7 or other incident dangerous to life or property calling for an emergency response has
- 8 occurred or is about to occur; [OR]
- 9 ~~delete~~ (4) (knowingly makes a false report to the Department of Natural
- 10 Resources under AS 46.17 concerning the condition of a dam or reservoir; or
- 11 (5) having committed a crime, knowingly gives false information
- 12 to a peace officer with the intent of avoiding apprehension, prosecution,
- 13 conviction, or punishment.
- 14 (b) False information or [MAKING A FALSE] report is a class A
- 15 misdemeanor.

## Explanation of Differences

### **SB 26 (1-LS0119\A) and Blank CS for SB 26 (1-LS0119\H)**

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**Prepared by:** Mike Pauley, Staff Aide to Senator Loren Leman (465-3841)

**Note:** Page & line numbers refer to the original SB 26, as introduced (1-LS0119\A)

- (1) **Page 1, lines 3-9:** delete all material (entirety of Section 1).

**Explanation:** Section 1 of SB 26 proposes to create a new crime of "false information or report in the first degree," which is designated as a Class C felony. Then, in Section 2, the bill defines the second degree of this offense, which is designated as a Class A misdemeanor. During the Senate Judiciary Committee hearing (03-08-99) concern was expressed by the Dept. of Law representative and other witnesses about whether it was appropriate to classify "false information or report in the first degree" as a Class C felony. It was observed that "resisting or interfering with arrest," arguably a more grave offense, is designated as a Class A misdemeanor [AS 11.56.700].

The Blank CS proposes to delete the distinction between first and second degrees, and create a single crime designated "False information or report," which is punishable as a Class A misdemeanor in all circumstances.

The Blank CS replaces the deleted material in Section 1 with new language that is explained below in (4).

- (2) **Page 1, lines 11-13:** delete two references to "in the second degree".

**Explanation:** As noted above, the Blank CS creates a single offense category, eliminating the need for distinction between first and second degrees.

- (3) **Page 2, lines 2-6:** delete all material and replace with new material that defines the offense of "false information or report" as including when a person, "**having committed a crime, knowingly gives false information to a peace officer with the intent of avoiding apprehension, prosecution, conviction, or punishment;**"

**Explanation:** The original bill very narrowly defined the "false information or report" crime as occurring when a person provided false information about the person's identity while under arrest or detention, while being served a warrant, or while being issued a citation. Committee members and hearing witnesses observed that a person could provide false identity in other contexts aside from being under arrest or detention. For example, false identity could be provided to a peace officer to hinder an investigation, and this conduct would not be proscribed under the terms of the bill. Also, there are many types of misleading information other than false identity, and the bill would not classify such deception as a crime.

- (4) **Page 1, line 3:** insert a new bill section that expands the existing crime of "hindering prosecution in the second degree" to include all misdemeanor offenses, rather than limiting it to those offenses punishable by more than 90 days imprisonment.

**Explanation:** Current law [AS 11.56.780] makes it a crime to hinder the "apprehension, prosecution, conviction, or punishment" of a person who has committed a crime by "rendering assistance" to that person. The definition of "rendering assistance" includes the use of deception, e.g., lying [AS 11.56.770(b)(4)]. Thus, if a person deceives a police officer in an effort to obstruct the apprehension of another person who has committed a crime, the person who has "rendered assistance" has committed a crime. However, this applies **ONLY** if the person being shielded has committed a crime punishable by more than 90 days imprisonment. This effectively shields many offenders from coverage, including those who have committed Class B misdemeanors that are punishable by no more than 90 days imprisonment. Some of these offenses include:

**Criminal mischief in the fourth degree:** riding in a stolen vehicle, damaging property under \$50 [AS 11.46.486]

**Misconduct involving weapons, fifth degree:** minors possessing firearms without parental consent, possessing a firearm in a courtroom or domestic violence shelter [AS 11.61.220]

**Obstruction of highways:** rendering a highway impassable, or dropping any substance on a highway that creates risk of physical injury to others [AS 11.61.150]

These offenses may not rank among the more serious in the criminal statutes, but they are the types of offenses police are required to investigate every day, at considerable expense to the public. The law should provide some consequences for deceiving a police officer conducting investigations of these misdemeanors. The Blank CS for SB 26 would apply the "hindering prosecution" offense to all misdemeanors (felonies are covered under a separate statute). The offense would be punishable as a Class B misdemeanor.

###

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INTEROFFICE MEMORANDUM

---

TO: Rick  
FROM: Juli  
SUBJECT: SB 26  
DATE: 3/8/1999

**Senate Bill 26 -**

Changes the law regarding false reports. As it stands, there is a law against making a false reports - Class A misdemeanor that covers: false reports to peace officers about crimes, false reports to emergency personnel (crying "fire" when there's no fire), and false reports to DNR about dams or reservoirs breaking.

SB 26 adds lying about your identity when you're under arrest or detention, or being issued a warrant or citation.

If the crime you're arrested for/detained for/warrant/citation for is:

a felony → false information or report in the first degree - Class C felony (not more than 5 years)

a misdemeanor → false information or report in the second degree - Class A misdemeanor (not more than 1 year)



# SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189  
Web Site: <http://www.akrepublicans.org/Leman.htm>

Session: State Capitol, Juneau, AK 99801 (907) 465-2095  
Email: [Senator\\_Loren\\_Leman@legis.state.ak.us](mailto:Senator_Loren_Leman@legis.state.ak.us)

## Sponsor Statement – SB 26

### “An Act relating to providing false information or reports to a peace officer.”

Senate Bill 26 provides prosecutors an additional tool to prosecute those persons who give false information or reports to law enforcement personnel.

Under current law (AS 11.56.800) it is a class A misdemeanor for a person to knowingly “give false information to a peace officer *with the intent of implicating another in a crime*” (emphasis added).

Senate Bill 26 expands this statute by also including as a class A misdemeanor any provision of false *identity* information to a peace officer while the suspect is under arrest or detention for a *misdemeanor*, or is being served a warrant for a non-felony offense, or is being issued a citation. This change recognizes that *any* false identity given to a peace officer may increase the likelihood that the suspect will escape prosecution, even though the false information may not “implicate another in a crime” as current law stipulates.

Additionally, Senate Bill 26 provides that a person who gives false identity information while under arrest or detention for a *felony*, or while being served a warrant for a felony offense, is guilty of a class *C felony*.

Collectively, these proposed changes emphasize the gravity of providing false information in order to avoid prosecution. Under existing law it is illegal for a suspect to physically escape in order to avoid prosecution, and the severity of the crime of escape correlates to the seriousness of the crime for which the person has been arrested. The law should recognize that the ruse of false information is tantamount to physical escape, as the suspect is also using deceit to escape justice. Some defendants have eluded arrest for years simply by using false identities while witnesses in their case drift away and the case grows stale and difficult to prosecute.

Prepared by Mike Pauley, Staff Aide to Senator Loren Leman (465-3841)  
Last updated: February 1, 1999

# Alaska Association of Chiefs of Police



MAR 02 1999

February 23, 1999

Senator Loran Leman  
State Capitol  
Juneau, AK 99801

Dear Senator Leman:

This letter is written in support of SB 26, an Act relating to providing false information or reports to a peace officer.

The use of false information to escape arrest or prosecution has become a way of life for many criminals. Beyond implicating another in a crime, a substantial number of persons continue to use the names and personal information of others again and again in order to "escape" the justice system. We also believe the penalty should equal the seriousness of the crime, since there is currently no greater penalty for providing false information in a felony case than in a misdemeanor case.

We endorse this effort to discourage both misdemeanor and felony suspects from attempting to escape justice by deception.

Sincerely,

A handwritten signature in cursive script, reading "Duane S. Udland".

Duane S. Udland, President  
Alaska Association of Chiefs of Police

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**ALASKA PEACE OFFICERS ASSOCIATION**

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Unalaska  
Pres. Aleutian Islands Chapter

Senator Leman  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801-1182

February 19, 1999

Dear Senator Leman,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 26.

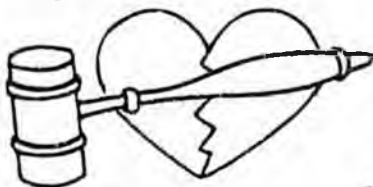
Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau  
State President  
Alaska Peace Officers Association

## VICTIMS



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

MAR 02 1999  
MAR 02 1999

February 24, 1999

Loren Leman  
State Capitol Suite 520  
Juneau, Ak 99801

Dear Senator Leman:

Victims for Justice is writing in support of SB 26, which is an act relating to providing false information or reports to a peace officer. It is important that a person is held accountable for lying to a police officer. When it is necessary for an officer to make an arrest or to use a statement from a witness concerning a crime, a simple lie can prevent that person from providing necessary information. Lying needs to be discouraged. I have seen juvenile offenders not be prosecuted because of lying to an officer. It is difficult for the justice system when a simple lie can prevent arrest or a person from being involved in an investigation. This legislation would be a good tool for police, prosecutors and crime prevention. Thank you Senator Leman for working for the safety of our communities.

Sincerely,

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

Janice Lienhart

## NOTES TO DECISIONS

**Legislative intent.** — In enacting the hindering prosecution statutes, the legislature unequivocally expressed the intent to dispense with any requirement of awareness as to the legal classification of the crime committed by the assisted person. *Noblit v. State*, 808 P.2d 280 (Alaska Ct. App. 1991).

**Culpable mental state.** — Where it is found that the defendant rendered assistance to another with

knowledge of the other person's wrongdoing and with the specific intent to hinder his prosecution, this culpable mental state affords adequate protection against the possibility of a conviction based on innocent conduct; no additional culpable mental state is necessary for due process purposes. *Noblit v. State*, 808 P.2d 280 (Alaska Ct. App. 1991).

**Sec. 11.56.790. Compounding.** (a) A person commits the crime of compounding if, unless authorized by AS 12.45.120 or 12.45.130, the person

(1) confers, offers to confer, or agrees to confer a benefit on another in consideration of that other person's concealing an offense, refraining from initiating or aiding in the prosecution of an offense, or withholding evidence of an offense; or

(2) accepts or agrees to accept a benefit in consideration of concealing an offense, refraining from initiating or aiding in the prosecution of an offense, or withholding evidence of an offense.

(b) Compounding is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

**Sec. 11.56.800. Making a false report.** (a) A person commits the crime of making a false report if the person knowingly

(1) gives false information to a peace officer with the intent of implicating another in a crime;

(2) makes a false report to a peace officer that a crime has occurred or is about to occur;

(3) makes a false report or gives a false alarm that a fire or other incident dangerous to life or property calling for an emergency response has occurred or is about to occur; or

(4) makes a false report to the Department of Natural Resources under AS 46.17 concerning the condition of a dam or reservoir.

(b) Making a false report is a class A misdemeanor. (§ 6 ch 166 SLA 1978; am § 1 ch 30 SLA 1987)

**Effect of amendments.** — The 1987 amendment added paragraph (a)(4).

## NOTES TO DECISIONS

**Statements prohibited.** — Defendant's statements concerning his oral accusation that a police officer had taken \$250 from the glove compartment of his truck, which the police officer authorized to be towed without operating lights or current registra-

tion, were prohibited by former AS 11.30.215, which made it a misdemeanor to give a false report of a crime to a peace officer. *Gottschalk v. State*, 575 P.2d 289 (Alaska 1978).

**Sec. 11.56.805. False accusation.** (a) A person commits the crime of false accusation if the person knowingly or intentionally initiates a false complaint with the Select Committee on Legislative Ethics established in AS 24.60.

(b) False accusation is a class A misdemeanor. (§ 2 ch 36 SLA 1984; am § 1 ch 113 SLA 1986)

**Effect of amendments.** — The 1986 amendment in subsection (b) substituted "class A misdemeanor" for "class C felony."

**Sec. 11.56.810. Terroristic threatening.** (a) A person commits the crime of terroristic threatening if the person knowingly makes a false report that a circumstance dangerous to human life exists or is about to exist and

(1) places a person in fear of physical injury to any person;

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**SB**

**42**

# LEGAL SERVICES

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

## MEMORANDUM

February 23, 1999

**SUBJECT:** Sectional Summary of the 1999 Revisor's Bill, CSSB 42(STA)  
(Work Order No. 21-LS0106\G)

**TO:** Senator Robin Taylor, Chair  
Senate Judiciary Committee

**FROM:** James P. Crawford   
Assistant Revisor

The following is a sectional analysis of CSSB 42(STA), the 1999 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of...the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

**Sections that correct, delete, or repeal, obsolete provisions:** Sections 2, 3, 10, 11, 14, 15, and 16 delete, update, or repeal provisions that have become obsolete either through other legislative action or the passage of time.

**Sections that correct deficiencies (errors, oversights, etc.):** Sections 1, 5, 6, 7, 12, and 19 correct errors or oversights that cannot be corrected editorially.

**Sections that improve the form or substance of the statute law:** Sections 4, 8, 9, 13, 17, and 18 propose amendments to improve the form or substance of the statute law of Alaska.

## SECTIONAL ANALYSIS

**Section 1.** AS 08.54.605(a) contains a deficiency that is the product of an apparent error. The phrase "a violation of" was not inserted at the beginning of sub-paragraph (a)(1)(A) when the section was added by sec. 3, ch. 33, SLA 1996, while other sections added by sec. 3 containing similar concepts did include the phrase. See, e.g., AS 08.54.710(a)(1), 08.54.720(a)(1), and 08.54.740(a) and (b). Section 1 adds the phrase.

Sections 2 and 3. AS 09.55.040 and 09.55.069 contain language that subsequent legislative action has made obsolete. Specifically, these sections contain a reference to "the 'Relief Fund' created by the laws dealing with lost persons." This is an apparent reference to AS 18.60.110, "Fund for the rescue and relief of lost persons," which at one time stated:

There is created a fund out of money in the state treasury, not otherwise appropriated, for the rescue and relief of any person who becomes lost. The fund shall be known as the Relief Fund.

However, this fund was repealed over thirty years ago by sec. 1, ch. 15, SLA 1968, and no replacement fund was created or designated in the repealing legislation. Consequently, sections 2 and 3 remove the references to this repealed fund.

Section 4. AS 10.50.995 is in need of improvement as to form. The chapter that it references was entitled "Chapter 50. Limited Liability Company Act" when enacted in ch. 99, SLA 1994 (Emphasis added). The sections in Chapter 50 relate to limited liability companies. Section 4 changes the reference in AS 10.50.995 to clarify that the concept of limited liability in Chapter 50 is related to companies.

Section 5. AS 11.61.123(e) contains a deficiency that is the product of an apparent oversight. Paragraph (e)(2) refers to AS 47.10.990 for the meaning of the phrase "juvenile detention facility." However, sections 45 and 46, ch. 59, SLA 1996 moved the definition of "juvenile detention facility" from AS 47.10.990 to AS 47.12.990 in 1996. Section 5 corrects the reference.

Section 6. AS 13.05.060 suffers from a deficiency that is the product of an apparent oversight. This section, which is part of Alaska's version of the Uniform Probate Code ("UPC"), was redrafted in 1996 in ch. 75, SLA 1996. However, the UPC definition of "person" was not added to the redraft. According to Arthur H. Peterson, Uniform Law Commissioner for the State of Alaska who was involved in the redrafting effort, it was thought at the time that the general definition of "person" in AS 01.10.060 was considered adequate. The UPC definition was consequently omitted.

Subsequent discussions between Mr. Peterson and Legislative Counsel Terry Bannister have pointed out the fact that the UPC definition of "person" includes an "organization," which itself is defined to include "government or governmental subdivision or agency." These entities are not specifically listed in AS 01.10.060's definition of "person". Section 6 changes the definition so that AS 13.05.060 matches the UPC in this respect.

Section 7. AS 13.26.344(a)(9) contains a deficiency that is the product of an apparent error. In various paragraphs in the section, the phrase "other instrument that the agent considers useful" appears. (Emphasis added). These paragraphs include (b)(7), (c)(9), (e)(7), (f)(9), (g)(7), and (j)(11). However, in paragraph (a)(9), the language is ungrammatically

phrased as "other instrument the agent useful." The word "considers" appears to have been omitted unintentionally. Section 7 adds it.

Section 8. AS 15.45.250 is in need of improvement as to form; specifically, section 13 adds "an" before "appropriation".

Section 9. AS 18.26.030(b) is in need of improvement as to form. By letter dated November 26, 1997, Ms. Karen Boorman, Executive Director of the Alaska Public Offices Commission, requested that the title to AS 39.50 be changed from "Conflict of Interest" to "Public Official Financial Disclosure" for the following reason:

The Commission believes that the existing title of the statute is a misnomer and creates the impression that the law enables APOC to determine when a conflict of interest exists. The law does not specify what constitutes a conflict, or how a conflict may be resolved or sanctioned. Instead, the law requires the disclosure of income sources, business interests, real property interests and loans or debts so that the public may know of the financial and business interests of persons seeking or holding office.

Although changes to titles of chapters can usually be accomplished in letter instructions to the publisher, in this case, the old title reference is found mentioned in the text of AS 18.26.030(b). The reference also appears in AS 24.60.130(m), amended by sec. 13, and AS 44.85.030, amended by sec. 17. Sections 9, 13, and 17 make the necessary changes. The revisor will instruct the publisher to make necessary title changes if these sections remain in the revisor's bill and if the bill becomes law.

Section 10. AS 19.10.300(f) contains an obsolete reference. Specifically, subparagraph (f)(1)(C)(iii) contains a spanned reference, 49 U.S.C. 1801-1813 (Hazardous Materials Transportation Act), which no longer exists. The obsolete reference is also found in AS 19.10.399(1), amended by sec. 11; AS 28.33.140(d), amended by sec. 14; AS 28.33.190(8), amended by sec. 15; and AS 28.40.100(2), amended by sec. 16. The Table of Dispositions for the United States Code Service volume for Title 49 of the federal statutes indicates that the provisions encompassed by the obsolete spanned reference were recodified without substantive change and are now found in 49 U.S.C. 5101-5127. The Department of Transportation and Public Facilities has suggested this spanned reference as the appropriate correction. Sections 10, 11, 14, 15, and 16 make this change.

Section 11. See the explanation for sec. 10.

Section 12. AS 24.60.050(d) contains a deficiency that is the product of an apparent oversight. Last year, sec. 36, ch. 74, SLA 1998 added a new section to AS 24.60 -- AS 24.60.105 -- which relates to deadlines for filing certain disclosures. A default deadline in the section is March 15. In light of this new date, AS 24.60.050(c) was given a conforming amendment in sec. 24 of the same 1998 bill. As amended, subsection (c) reads "the date required under AS 24.60.105" instead of the former date reference, "February 15". However,

at the time subsection (c) was changed, subsection (d), which had heretofore contained the same date reference as subsection (c), was not similarly changed. Section 12 corrects this.

Section 13. See the explanation for sec. 9.

Section 14. See the explanation for sec. 10.

Section 15. See the explanation for sec. 10.

Section 16. See the explanation for sec. 10.

Section 17. See the explanation for sec. 9.

Sections 18. AS 47.10.080(c)(3) is in need of improvement as to form. It now reads, in pertinent part, "the court shall ... by order ... the termination." It logically should read "the court shall ... order ... the termination." Section 19 makes this change, which has the additional effect conforming its sentence structure to that of paragraphs (c)(1) and (c)(2) of this section.

Section 19. Section 54, ch. 123, SLA 1996 (HCS 2d CSSB 136(FIN) am H(brf sup maj fld H)(efd fld S)("SB 136")) contains a deficiency that is the product of an apparat error. The section contains a reference to sec. 102, but review of ch. 123 reveals that sec. 102 does not exist. The last section in ch. 123 is sec. 101.

In light of the bill's history, the reference is corrected to read "sec. 100". SB 136 passed the House of Representatives on reconsideration. 1996 House Jour. 4579 (May 7, 1996). This version -- version "D" -- did have a sec. 102 (103 sections total), and sec. 54's reference to sec. 102 was correct at the time. It also had two alternate effective date sections, which were secs. 100 and 101. However, when SB 136 version "D" came before the Senate to determine whether the Senate would concur in House amendments, the Senate failed to adopt the effective date clauses. 1996 Senate Jour. 4178 (May 7, 1996). When the new version -- version "H" -- was reprinted as HCS 2d CSSB 136(FIN) am H (brf sup maj fld H)(efd fld S), the effective date clause sections that failed were removed, and the provision previously designated as sec. 102 became sec. 100, as can be seen by comparing the two versions. Unfortunately, sec. 54's reference to sec. 102 remained unchanged. Section 24 makes the change now.

Section 20. Section 20 makes the correction to sec. 54, ch. 123, SLA 1996 retroactive to July 1, 1996, the effective date of sec. 54, ch. 123, SLA 1996, in order to protect any reliance interest of those expending money under sec. 54, ch. 123, SLA 1996.

Section 21. Effective date.

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

## MEMORANDUM

March 22, 1999

**SUBJECT:** Proposed Amendment to the Revisor's Bill (CSSB 42 (STA))

**TO:** Senator Robin Taylor, Chair  
Senate Judiciary Committee  
Attn: Mel Krogsend

**FROM:** James P. Crawford   
Assistant Revisor of Statutes

Attached is a recommendation for the revisor's bill in the form of a proposed amendment.

The amendment addresses a problem brought to our attention by APOC after the bill was reported out of the Senate State Affairs Committee. Last year, AS 15.13.116(a), which relates to disbursements of campaign assets after elections, was amended by sec. 8, ch. 74, SLA 1998. In ch. 74, the substance of AS 15.13.116(a)(2) was deleted, and the remaining paragraphs were renumbered. What had previously been designated as (a)(3) -- permissible distributions of unused campaign funds to make donations to a political party -- and (a)(5) -- permissible distributions of unused campaign funds to repay loans from a candidate to the candidate's own campaign -- became AS 15.13.116(a)(2) and (a)(4), respectively. However, cross-references in AS 15.13.074(h), which relates to prohibited contributions, and AS 15.13.078(b), which relates to contributions and loans from a candidate, were not altered at the time to reflect this numbering change. This amendment corrects the cross-references now.

If you have any questions about the amendment, don't hesitate to call.

JPC:jdr  
99-143.jdr

Attachment

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

RECEIVED  
MAR 22 1999

Ans'd.....

March 22, 1999

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 269-5100  
FAX: (907) 276-3697

KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 451-2811  
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

Hon. Robin Taylor  
Chair  
Senate Judiciary Committee  
State Capitol, Rm 30  
Juneau, AK 99801

Re: CSSB 42(STA) - Comprehensive Revisor's Bill

Dear Senator Taylor:

The Department of Law has had the opportunity to review CSSB 42(STA), the 1999 comprehensive revisor's bill.

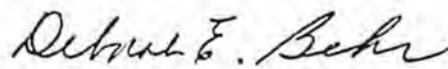
We believe that the bill overall makes important technical improvements to Alaska law. We find no legal problems with the bill.

If you need more information, please let me know.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:



Deborah E. Behr  
Assistant Attorney General

DEB:jf

cc: James Crawford  
Assistant Revisor of Statutes

# SENATE COMMITTEE REPORT

DATE: 2/19/99

FURTHER: Finance

DATE TURNED IN TO OFFICE: 3/25/99

Judiciary Committee considered

SENATE BILL NO. 42

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

and recommends:

- be replaced with CS SB 42 (JUD)
- adopt previous CS (        )
- attached amendment(s)
- adopt Letter of Intent by          Committee
- further referral to the          Committee

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<del>John S. Egan</del>		Kirk Halberd	✓		
		Al Johnson	✓		
		John S. Egan	✓		
CHAIR:		CHAIR: <i>John S. Egan</i>			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

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

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

NO. \_\_\_\_\_  
BILL VERSION: CSSB 42(JUD)  
PUBLISH DATE: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor..."  
Sponsor: Senate Rules Committee  
Requestor: Senate Judiciary

Department Affected: Legislative Affairs Agency  
BRU: All  
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact to the Legislative Affairs Agency.

Prepared By: Karla Schofield, Deputy Director  
Division: Administrative Services

Phone: 465-3852  
Date: 3/25/99

Approved By: Pamela A. Varni, Executive Director  
Agency: Legislative Affairs Agency

Date: 3/25/99

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov. , & Impacted Agency(ies).

# LEGAL SERVICES

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

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


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

## MEMORANDUM

March 22, 1999

**SUBJECT:** Proposed Amendment to the Revisor's Bill (CSSB 42 (STA))

**TO:** Senator Robin Taylor, Chair  
Senate Judiciary Committee  
Attn: Mel Krogsend

**FROM:** James P. Crawford   
Assistant Revisor of Statutes

Attached is a recommendation for the revisor's bill in the form of a proposed amendment.

The amendment addresses a problem brought to our attention by APOC after the bill was reported out of the Senate State Affairs Committee. Last year, AS 15.13.116(a), which relates to disbursements of campaign assets after elections, was amended by sec. 8, ch. 74, SEA 1998. In ch. 74, the substance of AS 15.13.116(a)(2) was deleted, and the remaining paragraphs were renumbered. What had previously been designated as (a)(3) -- permissible distributions of unused campaign funds to make donations to a political party -- and (a)(5) -- permissible distributions of unused campaign funds to repay loans from a candidate to the candidate's own campaign -- became AS 15.13.116(a)(2) and (a)(4), respectively. However, cross-references in AS 15.13.074(h), which relates to prohibited contributions, and AS 15.13.078(b), which relates to contributions and loans from a candidate, were not altered at the time to reflect this numbering change. This amendment corrects the cross-references now.

If you have any questions about the amendment, don't hesitate to call.

JPC:jdr  
09-143.jdr

Attachment

AMENDMENT #1 passes

OFFERED IN THE SENATE  
TO: CSSB 42(STA)

1 Page 10, following line 31:

2 Insert new bill sections to read:

3 \*\* Sec. 8. AS 15.13.074(h) is amended to read:

4 (h) Notwithstanding AS 15.13.070, a candidate for governor or lieutenant  
5 governor and a group that is not a political party and that, under the definition of the  
6 term "group," is presumed to be controlled by a candidate for governor or lieutenant  
7 governor, may not make a contribution to a candidate for another office, to a person  
8 who conducts a write-in campaign as a candidate for other office, or to another group  
9 of amounts received by that candidate or controlled group as contributions between  
10 January 1 and the date of the general election of the year of a general election for an  
11 election for governor and lieutenant governor. This subsection does not prohibit

12 (1) the group described in this subsection from making contributions  
13 to the candidates for governor and lieutenant governor whom the group supports; or

14 (2) the governor or lieutenant governor, or the group described in this  
15 subsection, from making contributions under AS 15.13.116(a)(2)(A)  
16 [AS 15.13.116(a)(3)(A)].

17 \* Sec. 9. AS 15.13.078(b) is amended to read:

18 (b) The provisions of this chapter do not prohibit the individual who is a  
19 candidate from lending any amount to the campaign of the candidate. Loans made  
20 by the candidate shall be reported as contributions in accordance with AS 15.13.040  
21 and 15.13.110. However, the candidate may not

22 (1) recover, under this section and AS 15.13.116(a)(4)  
23 [AS 15.13.116(a)(5)], the amount of a loan made by the candidate to the candidate's  
24 own campaign that exceeds

25 (A) \$25,000, if the candidate ran for governor or lieutenant

1                   governor;  
2                                   (B) \$10,000, if the candidate ran for  
3   (i) the legislature; or  
4   (ii) delegate to a constitutional convention;  
5                                   (C) \$10,000, if the candidate was a judge seeking retention;  
6                                   (D) \$5,000, if the candidate ran in a municipal election; or  
7                   (2) repay a loan that the candidate has made to the candidate's own  
8                   campaign unless, within five days of making the loan, the candidate notifies the  
9                   commission, on a form provided by the commission, of the candidate's intention to  
10                  repay the loan under AS 15.13.116(a)(4) [AS 15.13.116(a)(5)]."

11    Renumber the following bill sections accordingly.

12    Page 17, line 5:

13           Delete "Section 19"

14           Insert "Section 21"

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

RECEIVED  
MAR 22 1999

Ans'd.....

March 22, 1999

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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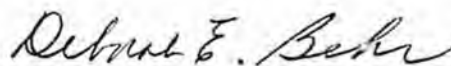
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If you need more information, please let me know.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:



Deborah E. Behr  
Assistant Attorney General

DEB:jf

cc: James Crawford  
Assistant Revisor of Statutes

# Senate STATE AFFAIRS Minutes



## SB 42-1999 REVISOR'S BILL

JAMES CRAWFORD, Assistant Revisor of Statutes, Division of Legal Services, gave the following description of SB 42. Section 20 repeals certain sections of statute that add a tract of land known as "Cape Suckling" to the Yakataga State Game Refuge. The sections of statute were placed in Section 20 because, based on initial information from the Department of Natural Resources (DNR), it appeared a litigation settlement agreement had made the sections obsolete. However, since SB 42 was introduced, updated information about the settlement agreement has revealed that those sections are dormant, not obsolete. The Division of Legal Services no longer recommends that those sections be repealed, but rather that Section 20 be removed from the bill.

MR. CRAWFORD stated the following corrections are not substantive. Section 6 amends the definitional sections of Alaska's probate code to correct an omission. During the 1996 revision of the probate code, the Uniform Probate Code (UPC) definition of "person" was omitted from the bill because it was assumed the Alaska Title 1 definition of "person" was identical. The UPC version specifically mentions government and governmental subunits and agencies. Uniform Law Commissioner Art Peterson asked that Title 1 be updated to include that phrase.

Number 080

SENATOR WARD asked Mr. Crawford if he agrees with Mr. Peterson's recommendation.

MR. CRAWFORD replied he thinks the existing definition in Title 1 is broad enough to include government and governmental subunits and agencies, but he recommends the change to allow the Alaska definition to track the UPC definition.

MR. CRAWFORD discussed Section 12, which amends AS 24.60.050, related to state programs and loans. The amendment will reflect the 1998 enactment of AS 24.60.105, which pertains to deadlines for filing disclosures. AS 24.60.050 relates to certain state programs and loans that a legislator or legislative employee may participate in without disclosure to the Select Committee on Legislative Ethics. Subsection (d), the section proposed for amendment, relates to disclosure deadlines for programs and loans that do not meet the standard today. Last year, when the new section, AS 24.60.105, was enacted, the bill contained a subsection (c) which is identical to the amendment suggested today. Both subsections (c) and (d) had the same date reference. The fact that subsection (d) was not amended was an oversight.

Number 127

SENATOR GREEN asked if SB 42 has a Judiciary referral.

CHAIRMAN WARD said it does not, but the committee can request one.

MR. CRAWFORD added when the overall revisor's bill was initially

presented to the Legislative Council, the Council decided to split it into two bills. The second bill was referred to the Judiciary Committee.

SENATOR GREEN moved to delete Section 20 from SB 42. There being no objection, the motion carried.

SENATOR PHILLIPS moved CSSB 42(STA) out of committee with individual recommendations. There being no objection, the motion carried.

CHAIRMAN WARD noted CSSB 42(STA) will move from committee with an accompanying request for a Senate Judiciary Committee referral.

---

Bill Root:

[Return to BASIS Main Menu\(21th Legislature\)](#)  
BASIS Last Updated 3/18/99 11:50 AM

**S B**

**4 5**

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 45

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected DOT&PF  
 Title Land Owner Immunity/ROW Vacation BRU Commissioners Office  
 Component \_\_\_\_\_  
 Sponsor Senator Halford  
 Requester (S) JUD Component Serial No. \_\_\_\_\_

**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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-----------------------------	------------	------------	------------	------------	------------	------------

<b>CHANGE IN REVENUE ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared by Dennis Poshard, Legislative Liaison Phone 465-3904  
 Division Office of the Commissioner Date/Time 4/13/99 12:35 PM  
 Approved by Commissioner *Joseph L. Pribens* Date 4/13/99  
 Agency Department of Transportation and Public Facilities

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB45

Revision Date: \_\_\_\_\_ Dept Affected: Natural Resources  
 Title: An Act relating to tort immunity for personal BRU: Parks & Rec Mgmt  
injuries or death occurring on land; relating to the vacation by... Component: Parks Management  
 Sponsor: Halford  
 Requestor: (S) JUD Component Serial No. #452

Expenditures/Revenues (Inflation not included unless otherwise noted below) (Thousands of Dollars)

OPERATING EXPENDITURES	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0
--------------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: \$ none

**POSITIONS**

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

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact to the Department of Natural Resources anticipated with implementation of this legislation.

Prepared by: Jim Stratton, Parks/Dick LeFebvre, Land Phone: 269-8701/269-8502  
 Division: Parks/Land Date: 17-Feb-99  
 Approved by Commissioner: [Signature] Date: 2-16-99  
 Agency: Natural Resources

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# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 1/25/99

FURTHER: Finance

Date of 5-Day Notice: 4-15-99  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4-19-99

Judiciary Committee considered

SENATE BILL NO. 45

"An Act relating to tort immunity for personal injuries or death occurring on land; relating to the vacation by the state or a municipality of rights-of-way acquired by the state under former 43 U.S.C. 932; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 45 (K) (JUD)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

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

SIGNING <del>DO PASS</del>	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Kirk Halford</i>	✓	<i>amend only</i>	✓		
CHAIR: <i>Adrian Taylor</i>	✓	CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

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

Department	Date	Zero	Fiscal
DNR	2/16	✓	
DOT	4/13	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill