

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10078 SENATE JUDICIARY

18 § 1030

CRIMES AND CRIMINAL PROCEDURE

(ii) the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or
 (iii) the value of the information obtained exceeds \$5,000;

(C) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2), (a)(3) or (a)(6) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

(3)(A) a fine under this title or imprisonment for not more than five years, or both, in the case of an offense under subsection (a)(4), (a)(5)(A), (a)(5)(B), or (a)(7) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or (a)(7) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

[(4) Repealed. Pub.L. 104-294, Title II, § 201(2)(D), Oct. 11, 1996, 110 Stat. 3493]

(d) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

(e) As used in this section—

(1) the term "computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;

(2) the term "protected computer" means a computer—

(A) exclusively for the use of a financial institution or the United States Government, or, in the case of a computer not exclusively for such use, used by or for a financial institution or the United States Government and the conduct constituting the offense affects that use by or for the financial institution or the Government; or

(B) which is used in interstate or foreign commerce or communication;

(3) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession or territory of the United States;

(4) the term "financial institution" means—

(A) an institution with deposits insured by the Federal Deposit Insurance Corporation;

(B) the Federal Reserve or a member of the Federal Reserve including any Federal Reserve Bank;

(C) a credit union with accounts insured by the National Credit Union Administration;

(D) a member of the Federal home loan bank system and any home loan bank;

(E) any institution of the Farm Credit System under the Farm Credit Act of 1971;

(F) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities Exchange Act of 1934;

(G) the Securities Investor Protection Corporation;

(H) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978); and

CRIMES AND CRIMINAL PROCEDURE

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18 § 1030

itted in furtherance of any criminal or tortious act on or laws of the United States or of any State; or nation obtained exceeds \$5,000;

nprisonment for not more than ten years, or both, subsection (a)(2), (a)(3) or (a)(6) of this section which their offense under this section, or an attempt to ler this subparagraph; and

or imprisonment for not more than five years, or ler subsection (a)(4), (a)(5)(A), (a)(5)(B), or (a)(7) of : after a conviction for another offense under this t an offense punishable under this subparagraph;

nprisonment for not more than ten years, or both, subsection (a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or s after a conviction for another offense under this t an offense punishable under this subparagraph;

34, Title II, § 201(2)(D), Oct. 11, 1996, 110 Stat.

rice shall, in addition to any other agency having i investigate offenses under subsections (a)(2)(A), (6) of this section. Such authority of the United ad in accordance with an agreement which shall be reasury and the Attorney General.

is an electronic, magnetic, optical, electrochemical, essing device performing logical, arithmetic, or ny data storage facility or communications facility i cc _unction with such device, but such term does iter or typesetter, a portable hand held calculator,

ter" means a computer—

ie of a financial institution or the United States of a computer not exclusively for such use, used by or the United States Government and the conduct ts that use by or for the financial institution or the

state or foreign commerce or communication;

the District of Columbia, the Commonwealth of monwealth, possession or territory of the United

on" means—

posits insured by the Federal Deposit Insurance

or a member of the Federal Reserve including any

accounts insured by the National Credit Union

leral home loan bank system and any home loan

Farm Credit System under the Farm Credit Act of

ored with the Securities and Exchange Commis- the Securities Exchange Act of 1934;

r Protection Corporation;

of a foreign bank (as such terms are defined in tion 1(b) of the International Banking Act of 1978);

(I) an organization operating under section 25 or section 25(a) of the Federal Reserve Act.

(5) the term "financial record" means information derived from any record held by a financial institution pertaining to a customer's relationship with the financial institution;

(6) the term "exceeds authorized access" means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accessor is not entitled so to obtain or alter;

(7) the term "department of the United States" means the legislative or judicial branch of the Government or one of the executive departments enumerated in section 101 of "a 5; and

(8) the term "damage" means any impairment to the integrity or availability of data, a program, a system, or information, that—

(A) causes loss aggregating at least \$5,000 in value during any 1-year period to one or more individuals;

(B) modifies or impairs, or potentially modifies or impairs, the medical examination, diagnosis, treatment, or care of one or more individuals;

(C) causes physical injury to any person; or

(D) threatens public health or safety; and

(9) the term "government entity" includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country.

(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

(g) Any person who suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations involving damage, as defined in subsection (e)(8)(A) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.

(h) The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under subsection (a)(5).

(Added Pub.L. 98-473, Title II, § 2102(a), Oct. 12, 1984, 98 Stat. 2190, and amended Pub.L. 99-474, § 2, Oct. 16, 1986, 100 Stat. 1213; Pub.L. 100-690, Title VII, § 7055, Nov. 18, 1988, 102 Stat. 4404; Pub.L. 101-73, Title IX, § 982(a)(6), Aug. 9, 1989, 103 Stat. 502; Pub.L. 101-647, Title XII, § 1205(a), Title XXV, § 2697(j), Title XXXV, § 3533, Nov. 29, 1990, 104 Stat. 4831, 4910, 4925; Pub.L. 103-322, Title XXIX, § 290001(b) to (f), Sept. 13, 1994, 108 Stat. 2097-2099; Pub.L. 104-294, Title II, § 201, Title VI, § 604(b)(36), Oct. 11, 1996, 110 Stat. 3401, 3508.)

HISTORICAL AND STATUTORY NOTES

References in Text

References to "paragraph y of section 11 of the Atomic Energy Act of 1954", referred to in subsec. (a)(1) is classified to section 2014(y) of Title 42, Public Health and Welfare.

The Fair Credit Reporting Act, referred to in subsec. (a)(2)(A), is Title VI of Pub.L. 90-321 as added by Pub.L. 91-508, Title VI, Oct. 20, 1970, 84 Stat. 1127, which is classified to subchapter III (section 1681 et seq.) of chapter 41 of Title 15, Commerce and Trade.

The Farm Credit Act of 1971, referred to in subsec. (c)(4)(E), is Pub.L. 92-181, Dec. 10, 1971, 85 Stat. 685, as amended, which is classified generally to chapter 23 (section 2001 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 12 and Tables.

Section 15 of the Securities Exchange Act of 1934, referred to in subsec. (e)(4)(F), is classified to section 78o of Title 15, Commerce and Trade.

Section 1(b) of the International Banking Act of 1978, referred to in subsec. (e)(4)(H), is classified to section 3101 of Title 12, Banks and Banking.

Section 25 of the Federal Reserve Act, referred to in subsec. (e)(4)(I), is classified to subchapter I (section 601 et seq.) of chapter 6 of Title 12.

Section 25(a) of the Federal Reserve Act, referred to in subsec. (e)(4)(I), is classified to subchapter II (section 611 et seq.) of chapter 6 of Title 12.

The date of the enactment of this subsection, referred to in subsec. (h), means the date of the enactment of Pub.L. 103-322, 108 Stat. 1796, which enacted subsec. (h) and was approved Sept. 13, 1994.

1-LS1284U
Luckhaupt
3/2/00

*Adopted
3/3/00*

CS FOR SENATE BILL NO. 259(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to crimes and offenses relating to aural representations,
2 recordings, access devices, identification documents, impersonation, and computers;
3 and providing for an effective date."

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

5 * Section 1. AS 11.41.455(a) is amended to read:

6 (a) A person commits the crime of unlawful exploitation of a minor if, in the
7 state and with the intent of producing a live performance, film, audio, video,
8 electronic, or electromagnetic recording, photograph, negative, slide, book,
9 newspaper, magazine, or other [PRINTED] material that visually or aurally depicts
10 the conduct listed in (1) - (7) of this subsection, the person knowingly induces or
11 employs a child under 18 years of age to engage in, or photographs, films, records, or
12 televises a child under 18 years of age engaged in, the following actual or simulated
13 conduct:

14 (1) sexual penetration;

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- (2) the lewd touching of another person's genitals, anus, or breast;
- (3) the lewd touching by another person of the child's genitals, anus, or breast;
- (4) masturbation;
- (5) bestiality;
- (6) the lewd exhibition of the child's genitals; or
- (7) sexual masochism or sadism.

* Sec. 2. AS 11.41.455(b) is amended to read:

(b) A parent, legal guardian, or person having custody or control of a child under 18 years of age commits the crime of unlawful exploitation of a minor if, in the state, the person permits the child to engage in conduct described in (a) of this section knowing that the conduct is intended to be used in producing a live performance, film, audio, video, electronic, or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine, or other [PRINTED] material that visually or aurally depicts the conduct.

* Sec. 3. AS 11.46.140(a) is amended to read:

(a) A person commits the crime of theft in the third degree if the person commits theft as defined in AS 11.46.100 and

- (1) the value of the property or services is \$50 or more but less than \$500;
- (2) the property is an access device [A CREDIT CARD]; or
- (3) the value of the property is less than \$50 and, within the past five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of theft or concealment of merchandise, or an offense under another law or ordinance with similar elements.

* Sec. 4. AS 11.46.285 is amended to read:

Sec. 11.46.285. Fraudulent use of an access device [A CREDIT CARD].

(a) A person commits the crime of fraudulent use of an access device [A CREDIT CARD] if, with intent to defraud, the person uses an access device [A CREDIT CARD] to obtain property or services with knowledge that

- (1) the access device [CARD] is stolen or forged;

1 (2) the access device [CARD] is expired or has been revoked or
2 cancelled; or

3 (3) for any other reason, that person's use of the access device [CARD]
4 is unauthorized by either the issuer or the person to whom the access device [CREDIT
5 CARD] is issued.

6 (b) Fraudulent use of an access device [A CREDIT CARD] is

7 (1) a class B felony if the value of the property or services obtained
8 is \$25,000 or more;

9 (2) a class C felony if the value of the property or services obtained is
10 \$500 or more but less than \$25,000;

11 (3) [(2)] a class A misdemeanor if the value of the property or services
12 obtained is \$50 or more but less than \$500;

13 (4) [(3)] a class B misdemeanor if the value of the property or services
14 obtained is less than \$50.

15 * Sec. 5. AS 11.46.290 is amended to read:

16 Sec. 11.46.290. Obtaining an access device or identification document [A
17 CREDIT CARD] by fraudulent means. (a) A person commits the crime of
18 obtaining an access device or identification document [A CREDIT CARD] by
19 fraudulent means if

20 (1) the person buys an access device or identification document [A
21 CREDIT CARD] from a person other than the issuer or, as other than the issuer, the
22 person sells an access device or identification document [A CREDIT CARD];

23 (2) with intent to defraud, the person obtains an access device or
24 identification document [CONTROL OF A CREDIT CARD AS A SECURITY FOR
25 DEBT]; or

26 (3) with intent to defraud, the person makes a false statement in an
27 application for an access device or identification document [A CREDIT CARD].

28 (b) [OBTAINING A CREDIT CARD BY FRAUDULENT MEANS UNDER
29 (a)(1) OR (2) OF THIS SECTION IS A CLASS C FELONY.] Obtaining an access
30 device or identification document [A CREDIT CARD] by fraudulent means [UNDER
31 (a)(3) OF THIS SECTION] is a class A misdemeanor.

1 * Sec. 6. AS 11.46 is amended by adding a new section to read:

2 Sec. 11.46.565. **Criminal impersonation in the first degree.** (a) A person
3 commits the crime of criminal impersonation in the first degree if the person

4 (1) possesses an access device or identification document of another
5 person;

6 (2) without authorization of the other person, uses the access device or
7 identification document of another person to obtain a false identification document,
8 open an account at a financial institution, obtain an access device, or obtain property
9 or services; and

10 (3) with criminal negligence, damages the financial reputation of the
11 other person.

12 (b) Criminal impersonation in the first degree is a class B felony.

13 * Sec. 7. AS 11.46.570 is amended to read:

14 Sec. 11.46.570. **Criminal impersonation in the second degree.** (a) A person
15 commits the crime of criminal impersonation in the second degree if the person

16 (1) assumes a false identity and does an act in the assumed character
17 with intent to defraud, commit a crime, or obtain a benefit to which the person is
18 not entitled; or

19 (2) pretends to be a representative of some person or organization and
20 does an act in the pretended capacity with intent to defraud, commit a crime, or
21 obtain a benefit to which the person is not entitled.

22 (b) Criminal impersonation in the second degree is a class A misdemeanor.

23 * Sec. 8. AS 11.46.630(b)(1) is amended to read:

24 (1) "business record" means a writing, recording, or article kept or
25 maintained by an enterprise for the purpose of evidencing or reflecting its condition
26 or activity;

27 * Sec. 9. AS 11.46.710(c) is amended to read:

28 (c) Except as provided in (d) of this section, deceptive [DECEPTIVE]
29 business practices is a class A misdemeanor.

30 * Sec. 10. AS 11.46.710 is amended by adding a new subsection to read:

31 (d) Deceptive business practices is a class C felony if the person uses a

1 computer, computer system, computer program, computer network, or any part of a
2 computer system or network to commit the offense.

3 * Sec. 11. AS 11.46.740(a) is amended to read:

4 (a) A person commits the offense of criminal use of a computer if, having no
5 right to do so or any reasonable ground to believe the person has such a right, the
6 person knowingly accesses, [OR] causes to be accessed, or exceeds the person's
7 authorized access to a computer, computer system, computer program, computer
8 network, or any part of a computer system or network, and, as a result of or in the
9 course of that access,

10 (1) obtains information concerning a person; [OR]

11 *define or remove* → (2) introduces false or misleading information into a computer,
12 computer system, computer program, or computer network with the intent to damage
13 or enhance the data record or the financial reputation of a person;

14 (3) introduces false or misleading information into a computer,
15 computer system, computer program, or computer network and, with criminal
16 negligence, damages or enhances the data record or the financial reputation of a
17 person;

18 (4) obtains proprietary information of another person;

19 (5) obtains information that is only available to the public for a fee;

20 (6) introduces instructions, a computer program, or other
21 information that tampers with, disrupts, disables, or destroys a computer,
22 computer system, computer program, computer network, or any part of a
23 computer system or network; or

24 (7) encrypts or decrypts data.

25 * Sec. 12. AS 11.46.740 is amended by adding a new subsection to read:

26 (c) In this section, "proprietary information" means scientific, technical, or
27 commercial information, including a design, process, procedure, customer list, supplier
28 list, or customer records that the holder of the information has not made available to
29 the public.

30 * Sec. 13. AS 11.46.990 is amended by adding a new paragraph to read:

31 (14) "financial reputation" means a person's

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or misleading

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(A) ability to obtain a loan from a financial institution, open an account with a financial institution, obtain property or services on credit, or obtain an access device; or

(B) creditworthiness in a credit report.

* Sec. 14. AS 11.61.125(d) is amended to read:

(d) In this section, "distribution" includes delivering, selling, renting, leasing, lending, giving, circulating, exhibiting, presenting, providing, [AND] exchanging, and placing on a computer network or computer system, whether or not for monetary or other consideration.

* Sec. 15. AS 11.81.900(b)(48) is amended to read:

(48) "property" means an article, substance, or thing of value, including money, tangible and intangible personal property including data or information stored in a computer program, system, or network, real property, an access device [A CREDIT CARD], a domestic pet or livestock regardless of value, choses-in-action, and evidence of debt or of contract; a commodity of a public utility such as gas, electricity, steam, or water constitutes property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment is considered a rendition of a service rather than a sale or delivery of property;

* Sec. 16. AS 11.81.900(b) is amended by adding new paragraphs to read:

(61) "access device" means a card, credit card, plate, code, account number, algorithm, or identification number, including a social security number, electronic serial number, or password, that is capable of being used, alone or in conjunction with another access device or identification document, to obtain property or services, or that can be used to initiate a transfer of property;

(62) "identification document" means a paper, instrument, or other article used to establish the identity of a person; "identification document" includes a social security card, driver's license, non-driver's identification, birth certificate, passport, employee identification, or hunting or fishing license.

* Sec. 17. The uncodified law of the State of Alaska is amended by adding a new section to read:

- 1 APPLICABILITY. This Act applies to acts and offenses committed or completed on
- 2 or after the effective date of this Act.
- 3 * Sec. 18. This Act takes effect immediately under AS 01.10.070(c).

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 28, 2000

SUBJECT: Merging of SB 245 and SB 259 (Work Order No. 21-LS1284/G)

TO: Senator Robin Taylor
Attn: Sue

FROM: Gerald P. Luckhaupt *JGL*
Legislative Counsel

Enclosed is the bill you requested. Under Art. II, § 13, Constitution of the State of Alaska, each "bill shall be confined to one subject. . ." I'm not sure there is a single subject for this bill. Most things in the bill relate to criminal law but the provisions relating to electronic storage in bill sec. 17 reach beyond criminal as do the provisions we have added about consumer credit reporting agencies. We could try to argue that the bill relates to access, transfer, or storage of information, services, or property I guess, but some forms of the access device do not necessarily relate to that. In any event, I haven't had much time to review this so I am merely making you aware that this bill seems rather broad to me.

In addition, the revisor of statutes strongly believes that the bills title does not meet the fair express requirement of the Constitution.

GPL:jdr:glc
00-099:jdr

Enclosure

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SB 259

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title "An Act relating to criminal impersonation." BRU Administration and Operations
 Component All
 Sponsor Senator Taylor
 Requester House Judiciary Component No. #0694

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would broaden the definition for criminal impersonation to include "with the intent to commit a crime". The Department does not anticipate that this will make a significant impact on the number of people incarcerated or their length of incarceration. Therefore, the Department is submitting a zero fiscal note.

Prepared by: Candy Brower, Legislative Liaison Phone 465-3307
 Division Commissioner's Office Date/Time 2/12/00 2:55 PM
 Approved by Commissioner Margaret M. Pugh Date 2-14-00
 Agency Dept. of Corrections

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SB 259

Revision Date: February 15, 2000
Title: "An Act relating to criminal impersonation"
Sponsor: Senator Taylor
Requestor: (S) JUD

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING
CAPITAL EXPENDITURES
CHANGE IN REVENUES ()

FUND SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 00) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

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

Phone: (907) 264-4414
Date: February 15, 2000

Approved by Commissioner: Robert Poe, Jr. / [Signature]
Agency: Department of Administration

Date: February 15, 2000 2/15/00

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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 259

2000 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill would add a provision to the Criminal Impersonation statute that would make possession of a false identification card or an identification card that belongs to someone else a class A misdemeanor offense. The defendant would have to possess the card with intent to commit a crime or to defraud.

The Public Defender Agency expects some financial impact as a result of this bill. This bill significantly expands the activity covered by criminal impersonation. We estimate that there are many cases where underage people use "false id's" to try to get alcohol and tobacco. If these all these cases end up being prosecuted as state misdemeanors, the impact could be significant. However, with our current information, it is not possible to make an accurate estimate of the number of new cases that will be prosecuted. Therefore, the Public Defender Agency is submitting an indeterminate fiscal note.

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/10/00

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered

SENATE BILL NO. 259

"An Act relating to criminal impersonation."

and recommends:

- be replaced with _____ CS SP 259 (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 <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>[Signature]</i>	✓		
		<i>[Signature]</i>	X		
		<i>[Signature]</i>	✓		
CHAIR: <i>[Signature]</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

CORRECTION	2/14	✓	
ADMINISTRATION	2/15		*
JUDICIAL SAFETY	3/8		145.6

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Impostor gains access to couple's savings

By AMANDA BOHMAN
Staff Writer

When Nancy Kuhn received a letter from her credit union asking to verify her change of address to Juneau, she knew there was a mistake.

The Kuhns, who live in Fairbanks, hadn't moved to Juneau and didn't plan to.

Kuhn called Alaska USA Federal Credit Union to tell them the address change was wrong. That's when she learned of the four withdrawals from her account.

Someone posing as her husband not only changed the address of the account but had most of the money—\$4,900—wired to Georgia.

"This is a case of stolen identity," Kuhn said. "It's a thing we all read about, but it never happens to us."

The impostor made the first three withdrawals, each for \$1,000, the same day as the address change on Jan. 14. The fourth withdrawal, for \$1,900, was made a day later.

In Jonesboro, Ga., the impostor showed up at a Western

Union office carrying a fake military identification card with Eugene Kuhn's name and Social Security number on it, Nancy Kuhn said credit union officials told her. The person knew Eugene's credit union savings account number and the date the account was opened. The only thing the impostor got wrong, Kuhn said, was her husband's birthdate.

Jack Simmonds, senior vice president of operations at Alaska USA, said the credit union asked Western Union to compare the signature at the wire service with the signature on the account. When they didn't match, the credit union reimbursed the Kuhns.

"I don't think people should be concerned," Simmonds said. "The credit union has made this person whole. The member has not lost any money."

Simmonds said the credit union's insurance company would probably investigate the fraud, along with the FBI.

He said that for security reasons he could not comment on account.
See THEFT, Page A-8

Fairbanks Daily News-Miner, Saturday, February 19, 2000

THEFT: Impostor steals \$4,900

Continued from Page A-1
cess accounts at the credit union. But he said credit union members have the option of having a password. "We take every reasonable step to keep accounts secure."

The credit union was almost too secure for Kuhn at one point. She said she closed one of the couple's accounts in a huff last fall because the credit union demanded both her driver's license number and her Social Security number for a withdrawal receipt. Kuhn said she was willing to show that information but re-

fused to let the bank put it on her receipt, in case it fell out of her purse or something, she said.

Kuhn said the credit union told her it would need the name, types of accounts at the credit union, Social Security number and date of birth from someone to access bank records. The couple is perplexed as to how someone could get that information, which is supposedly private.

Kuhn said her husband is "a little bit sloppy" but that he's never lost anything. "I don't think he ever misplaced one of

the statements. I keep track of those."

The couple opened the savings account in 1975, before the credit union was bought by Alaska USA, Kuhn said.

She and her husband don't know anybody in Jonesboro, which is a busy suburb of Atlanta.

Fairbanks police referred Kuhn's complaint to the FBI. Neither the Fairbanks FBI bureau or the Anchorage bureau have begun investigating.

Alaska State Legislature

Chairman,
Judiciary Committee
Administrative Regulations
Revenue Committee

Vice Chairman,
Resources Committee



Senator Robin L. Taylor

State Capitol
Juneau, Alaska 99801-1182
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Suite 203
Ketchikan, Alaska 99901
(907) 225-8088
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SB 259 Sponsor Statement Senate Bill

“An Act relating to criminal impersonation.”

Alaska has always been the “Last Frontier.” For most of us who came to this great state it was the mystique and adventure. For others it was a place to escape too. Unfortunately, some of the latter group are escaping from the law and have stolen someone else’s identity to do that.

Acting under an assumed name, with false identification to support the claim, they obtain credit cards and checking accounts often not paying the bills. This leaves honest Alaskans with the problem of dealing with Credit Agencies, or the government with little or no recourse.

But there is more than fraud to deal with. Criminal activities include, minors purchasing alcohol or tobacco or a person using someone’s good name to establish a less than acceptable reputation.

Once passed these additions to existing statute will give law enforcement an additional tool to keep Alaskans safer from fraud and deceit by those who with the use of false identification are not what they seem.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

Alaska State Troopers



WHITE COLLAR CRIME SECTION

* * * * *

The White Collar Crime Section is charged with the duties of coordinating and or investigating selected acts of forgery, fraud, embezzlement, unsworn falsification, perjury, credit card crimes, politically sensitive matters, crimes which involve computers, to include forensic data recovery and analysis along with other investigations designated by the commander of the Criminal Investigation Bureau.

Currently, the White Collar Crime Section consists of one Sergeant and two Investigators. Investigators assigned to the White Collar Crime Section many times deal with complex cases that require many hours of document analysis in order to identify criminal violations. They work closely with prosecutors within the Department of Law's Office of Special Prosecutions and Appeals.

The Alaska State Trooper's White Collar Crime Section is a voting member of the National White Collar Crimes Center. This allows the section to draw on the many services and resources they provide, such as up to date training, data and document analysis, intelligence data bases, computer and network expertise and many other helpful tools that the white collar crime investigator may need.

Members of the White Collar Crime Section, while not auditors, have received specialized training in Fraud and Financial Crimes Investigative Techniques, Complex Crimes Case Management, the Investigation of Internet Crimes, and Computer Forensics.

SB

268

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SB268

Revision Date: _____
 Title: "An Act relating to mandatory 99-year terms of imprisonment for persons convicted of certain murders"
 Sponsor: Senator Donley
 Requestor: (S) JUD

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

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE:

(Thousands of Dollars)

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

Estimate of any current year (FY 00) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would mandate a 99-year sentence if the defendant is convicted of first degree murder and personally caused someone's death in the course of a robbery. The mandatory sentence would not apply if the person who is killed was one of the participants in the robbery.

The addition of a mandatory sentence in this type of case is not expected to impact the Public Defender Agency financially.

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

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Robert Poe, Jr.
 Agency: Department of Administration

Date: 2/22/00

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SB 268

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Department of Corrections</u>
Title <u>An Act relating to mandatory 99-year terms of imprisonment for persons convicted of certain murders.</u>	BRU <u>Administration and Operations</u>
Sponsor <u>Senator Donley</u>	Component <u>All</u>
Requester <u>Senate Judiciary Committee</u>	Component No. <u>#0694</u>

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

If passed, this legislation will require a mandatory 99 year sentence for those who are convicted of murder in the first degree and personally caused the death of the person during a robbery. This legislation removes judicial discretion in sentencing for this particular crime as well as the offender's eligibility for parole. The result of that will be an increase in geriatric inmates at a dramatic increase in cost for those inmates in the out years.

Current sentencing laws allow for a sentence of twenty to ninety-nine years for murder in the first degree unless the victim was a uniformed or clearly identified peace officer, fire fighter, or correctional employee who was engaged in their official duties at the time of the murder; or has previously been convicted of murder or homicide.

A review of sentencing in the past five years for offenders convicted of both murder in the first and robbery indicate that these individuals are already sentenced beyond 99 years. Therefore the Department of Corrections is submitting a zero fiscal note.

Prepared by: <u>Candy Brower, Legislative Liaison</u>	Phone <u>465-3307</u>
Division <u>Commissioner's Office</u>	Date/Time <u>2/19/00 1:26 PM</u>
Approved by: <u>Commissioner Margaret M. Pugh</u> <i>Margaret M. Pugh</i>	Date <u>2-19-00</u>
Agency <u>Dept. of Corrections</u>	

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SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/11/00

FURTHER: Finance

Date of 5-Day Notice: 2/17/00
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Judiciary Committee considered SENATE BILL NO. 268

"An Act relating to mandatory 99-year terms of imprisonment for persons convicted of certain murders."

and recommends:

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

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

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

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

ADMINISTRATION	2/22	✓	
CORRECTIONS	2/19	✓	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Brinkley, 681 P.2d 351 (Alaska Ct. App. 1984); Cleary v. State, 548 P.2d 952 (Alaska 1976); Salazar v. State, 562 P.2d 694 (Alaska 1977); Cleary v. State, 564 P.2d 374 (Alaska 1977); Amidon v. State, 565 P.2d 1248 (Alaska 1977); Black v. State, 569 P.2d 804 (Alaska 1977); Sumabat v. State, 580 P.2d 323 (Alaska 1978); Hansen v. State, 582 P.2d 1041 (Alaska 1978); Kanipe v. State, 620 P.2d 678 (Alaska 1980); Hintz v. State, 627 P.2d 207 (Alaska 1981); State v. Hooper, 750 P.2d 840 (Alaska Ct. App. 1988).

Inclusion of improper reference to unverified police contacts did not require remand for resentencing before different judge. — See Parks v. State, 571 P.2d 1003 (Alaska 1977).

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).

Case remanded for resentencing. — See Neal v.

State, 628 P.2d 19 (Alaska 1981).

Case remanded for sentence review. — Although a sentence of 15 years' imprisonment with eligibility for parole at the discretion of the parole board upon conviction of manslaughter was not excessive, since the trial court had sentenced defendant as if his conviction had been obtained within one year of the crime and therefore substantially ignored his subsequent history of steady employment, his meritorious service in the army, and his lack of involvement in any criminal activity other than a few traffic offenses in the 12 years since the commission of the crime, the case was remanded for the purpose of permitting the trial court to review the sentence it imposed, in light of all available information concerning defendant without excluding the time period commencing one year from the time of the killing until the present. Padie v. State, 594 P.2d 50 (Alaska 1979).

Cited in Williams v. State, 928 P.2d 600 (Alaska Ct. App. 1996).

Sec. 12.55.125. Sentences of imprisonment for felonies. (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110; or

(3) the court finds by clear and convincing evidence that the defendant subjected the murder victim to substantial physical torture.

(b) A defendant convicted of murder in the second degree, attempted murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.

(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;

(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or 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 offense, seven years;

(3) if the offense is a second felony conviction, 10 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (i) of this section, 15 years.

(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

a 1981).

sentence review. — Al-
years' imprisonment with
he discretion of the parole
manslaughter was not exces-
had sentenced defendant as
obtained within one year of
substantially ignored his
udy employment, his merito-
and his lack of involvement
other than a few traffic
since the commission of the
mandd for the purpose of
t to review the sentence it
ailable information concern-
cluding the time period com-
e time of the killing until the
94 P.2d 50 (Alaska 1979).
ite, 928 P.2d 600 (Alaska Ct.

(a) A defendant con-
term of imprisonment
icted of murder in the
rent of 99 years when
l or otherwise clearly
o was engaged in the

11.15.010 or 11.15.020;
AS 11.15.030; or

offense of which the
ree murder under AS
defendant subjected the

empted murder in the
apping, or misconduct
nced to a definite term

to a definite term of
nced to the following
5.155 — 12.55.175:
involve circumstances

manslaughter, and the
used serious physical
ed the conduct consti-
ace officer, fire fighter,
ambulance attendant,
nce of official duties at

lant is not subject to

d to a definite term of
nced to the following
5.155 — 12.55.175:

(1) if the offense is a second felony conviction, four years;

(2) if the offense is a third felony conviction, six years.

(3) [Repealed, § 6 ch 6 SLA 1996.]

(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, two years;

(2) if the offense is a third felony conviction, three years.

(3) [Repealed, § 6 ch 6 SLA 1996.]

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one year.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum or mandatory term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed minimum or mandatory term may not be reduced, except as provided in (j) of this section.

(g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(4), or (i) of this section, except to the extent permitted under AS 12.55.155 — 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided. Nothing in (a) of this section limits the court's discretion to impose a sentence of 99 years imprisonment, or to limit parole eligibility, for a person convicted of murder in the first or second degree in circumstances other than those enumerated in (a).

(i) A defendant convicted of sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, eight years;

(2) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(3) if the offense is a second felony conviction, 15 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (l) of this section, 25 years.

(j) A defendant sentenced to a (1) mandatory term of imprisonment of 99 years under (a) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the mandatory term without consideration of good time earned under AS 33.20.010, or (2) definite term of imprisonment under (l) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving the greater of (A) one-half of the definite term or (B) 30 years. A defendant may not file and a court may not entertain more than one motion for modification or reduction of a sentence subject to this subsection, regardless of whether or not the court granted or denied a previous motion.

(k) A first felony offender convicted of an offense for which a presumptive term of imprisonment is not specified under this section may not be sentenced to a term of unsuspended imprisonment that exceeds the presumptive term for a second felony offender convicted of the same crime unless the court finds by clear and convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or that circumstances exist that would warrant a referral to the three-judge panel under AS 12.55.165.



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

SPONSOR STATEMENT
SENATE BILL 268

**"AN ACT RELATING TO MANDATORY 99-YEAR TERMS OF IMPRISONMENT
FOR PERSONS CONVICTED OF CERTAIN MURDERS."**

Senate Bill 268 would require those convicted of murder in the first degree to be sentenced to a mandatory term of imprisonment of 99 years when the defendant convicted of the murder personally caused the death of a person, other than a participant, during a robbery.

SB 268 is in direct response to the recent increase in murders of late night restaurant workers and taxi drivers and was introduced at the request of the Alaska Hospitality Association. A clear message needs to be sent to would be robbers who believe it necessary to take another life during a robbery. Any such action is not going to be tolerated by the people of Alaska. The lives of our mothers, daughters, sons and fathers who work these late shifts are too precious for us to stand idly by and watch as this trend continues.

Senate Bill 268 would add this new standard to three existing provisions of law authored by Senator Donley in 1990 that also require the mandatory 99 year sentence when:

- The defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, fire fighter or correctional employee who was performing professional duties at the time of the murder;
- The defendant has been previously convicted of a murder in the first degree; or
- The court finds clear and convincing evidence that the defendant subjected the victim to substantial physical torture.

By brutally taking lives during robberies, these offenders have demonstrated their wanton disregard for life. Such people need to know such evil actions will have serious consequences. SB 268 sends a clear message to potential future robbers not to kill.

DD/hm

Vice-Chair, Senate Finance Committee • Chair, Capital Budget Subcommittee • Co-Chair, Anchorage Caucus
Member: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

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SB

277

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SB 277

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Office of the Governor</u>
Title <u>"An Act relating to ... Alaska Online Public Notice System:..."</u>	BRU <u>Executive Operations</u>
Sponsor <u>Senate Finance Committee</u>	Component <u>Lieutenant Governor</u>
Requester <u>Senate Judiciary</u>	Component No. <u>11</u>

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Office of the Lt. Governor proposes a zero-fiscal note because this legislation eliminates one responsibility, production of the administrative journal, and replaces it with another, oversight of the Online Public Notice system. The new responsibility requires a similar workload and responsibility to the old one. Hence, it is unnecessary to request any new general funds.

Prepared by: John Lindback, Chief of Staff *J Lindback*
 Division: Office of the Lt. Governor
 Approved by: Lieutenant Governor Fran Ulmer *J Lindback*
 Agency: Office of the Lt. Governor

Phone 465-3520
 Date/Time 2/25/00 4:23 PM
 Date 02/25/2000

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SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/17/00

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered

SENATE BILL NO. 277

"An Act relating to the elimination of the Alaska Administrative Journal and the establishment of the Alaska Online Public Notice System; amending public notice publication requirements for regulations; and providing for an effective date."

and recommends:

be replaced with _____ CS SB 277 (KLD)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

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

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Dan Wiley</i>	✓	<i>Keith Hubbard</i>	✓		
		<i>J. Ellis</i>	✓		
CHAIR:		CHAIR: <i>Adrian Taylor</i>	✓		

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

#1 Gov.	2/25/00	✓	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Halford

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 277

1 Page 1, lines 1 - 3:

2 Delete all material and insert:

3 **""An Act relating to the giving of certain state agency notices; relating to the**
4 **elimination of the Alaska Administrative Journal and to the establishment of the Alaska**
5 **Online Public Notice System for the giving of certain notices; and providing for an**
6 **effective date.""**

7 Page 2, following line 12:

8 Insert new bill sections to read:

9 **""* Sec. 3. AS 44.19 is amended by adding a new section to read:**

10 **Sec. 44.19.021. Powers of the lieutenant governor.** (a) To promote public
11 awareness and in the best interests of the state, the lieutenant governor, under the
12 provisions of AS 36.30, may provide for the availability of consolidated space in
13 newspapers of general circulation and in trade and industry publications for the
14 publication of notices regarding state agency regulations as required by
15 AS 44.62.010 - 44.62.290. The lieutenant governor may require state agencies to
16 participate in the use of consolidated space provided under this section and may waive
17 the requirement if nonparticipation is in the best interests of the state.

18 (b) In this section, "state agency" means a department, board, commission,
19 division, authority, public corporation, or other administrative unit of the executive
branch of state government.

20 *** Sec. 4. AS 44.62.120 is amended to read:**

21 **Sec. 44.62.120. Voluntary submitting and publication.** With the approval
22 of the lieutenant governor, a state agency may submit to the lieutenant governor for
23 filing a regulation or order of repeal of a regulation not required by AS 44.62.040 to
24

*Delete to 4
31.*

1 be submitted. If the lieutenant governor accepts the regulation or order of repeal, the
 2 lieutenant governor shall endorse and file it as required in AS 44.62.080, and may
 3 provide notice of [PUBLISH] the regulation or order of repeal in the manner the
 4 lieutenant governor considers proper."

5 Renumber the following bill sections accordingly.

6 Page 3, line 24, through page 4, line 26:

7 Delete all material and insert:

8 "(a) At least 30 days before the adoption, amendment, or repeal of a
 9 regulation, notice of the proposed action shall be

10 (1) published in the newspaper of general circulation or trade or
 11 industry publication that the state agency prescribes and posted on [IN] the Alaska
 12 Online Public Notice System [ALASKA ADMINISTRATIVE JOURNAL]; in the
 13 discretion of the state agency giving the notice, the requirement of publication in a
 14 newspaper or trade or industry publication may be satisfied by using a combination
 15 of publication and broadcasting; [WHEN BROADCASTING THE NOTICE, AN
 16 AGENCY MAY USE AN ABBREVIATED FORM OF THE NOTICE IF THE
 17 BROADCAST PROVIDES THE NAME AND DATE OF THE NEWSPAPER OR
 18 TRADE OR INDUSTRY JOURNAL WHERE THE FULL TEXT OF THE NOTICE
 19 CAN BE FOUND;]

20 (2) furnished [MAILED] to every person who has filed a request for
 21 notice of proposed action with the state agency;

22 (3) if the agency is within a department, furnished [MAILED OR
 23 DELIVERED] to the commissioner of the department;

24 (4) when appropriate in the judgment of the agency,

25 (A) furnished [MAILED] to a person or group of persons
 26 who [WHOM] the agency believes is interested in the proposed action; and

27 (B) provided [PUBLISHED] in the additional form and
 28 manner the state agency prescribes;

29 (5) furnished to the Department of Law together with a copy of the
 30 proposed regulation, amendment, or order of repeal for the department's use in

1 preparing the opinion required after adoption and before filing by AS 44.62.060;

2 (6) furnished to all incumbent State of Alaska legislators and the
3 Legislative Affairs Agency;

4 (7) furnished to the standing committee of each house of the
5 legislature having legislative jurisdiction over the subject matter treated by the
6 regulation under the Uniform Rules of the Alaska State Legislature, together with a
7 copy of the proposed regulation, amendment, or order of repeal for the committee's
8 use in conducting the review authorized by AS 24.05.182;

9 (8) furnished to the staff of the Administrative Regulation Review
10 Committee, together with a copy of the proposed regulation, amendment, or order of
11 repeal and, if preparation of an appropriation increase estimate is required by
12 AS 44.62.195, a copy of the estimate.

13 * Sec. 7. AS 44.62.190(c) is amended to read:

14 (c) The failure to **furnish** [MAIL] notice to a person as provided in this
15 section does not invalidate an action taken by an agency under AS 44.62.180 -
16 44.62.290.

17 → * Sec. 8. AS 44.62.200(a) is amended to read:

18 (a) The notice of proposed adoption, amendment, or repeal of a regulation
19 **that is published under AS 44.62.175 on the Alaska Online Public Notice System**
20 **or is provided under AS 44.62.190(a)(2) - (8)** must include **the information**
21 **described in (1) - (7) of this subsection.** **The notice that is published in a**
22 **newspaper of general circulation or trade or industry publication or that is**
23 **broadcast must include the information described in (1), (4), and (6) of this**
24 **subsection.** **The information that must be provided according to requirements**
25 **set out in this subsection is**

26 (1) a statement of the time, place, and nature of proceedings for
27 adoption, amendment, or repeal of the regulation;

28 (2) reference to the authority under which the regulation is proposed
29 and a reference to the particular code section or other provisions of law that are being
30 implemented, interpreted, or made specific;

31 (3) an informative summary of the proposed subject of agency action;

32 (4) other matters prescribed by a statute applicable to the specific

1 agency or to the specific regulation or class of regulations;

2 (5) a summary of the fiscal information required to be prepared under
3 AS 44.62.195;

4 (6) a brief general description of the proposed subject of agency
5 action, how more detailed information may be obtained, and the name of the
6 agency contact person;

7 (7) the reason for the proposed action, the initial cost to the state
8 agency of implementation, the estimated annual costs to the state agency of
9 implementation, the name of the contact person for the state agency, and the
10 origin of the proposed action."

11 Renumber the following bill sections accordingly.

12 Page 5, following line 23:

13 Insert a new bill section to read:

14 "* Sec. 12. AS 44.62.190(d) is repealed."

15 Renumber the following bill sections accordingly.

Sectional Analysis
LS1407\A.1
Bannister – 2/16/00

This amendment includes a title change to SB 277.

Section 3: allows the lieutenant governor to require state agencies to use abbreviated public notices in newspapers of general circulation and in trade and industry publications.

DELETE **Section 4:** amends Article 2 of the Administrative Procedures Act allowing the lieutenant governor to provide Internet notice of regulations outside the scope of AS 44.62.040. This change is a conforming change with the rest of the bill – allowing for abbreviated, printed notices directing interested parties to more detailed Internet notices.

Page 3, line 24, through page 4, line 26: recognizes the advances in technology to online services. It deletes reference to a broadcast notice providing the name and date of the publication where the full text of a public notice can be found. If left in the law, this section would defeat the purpose of abbreviating public notices in newspapers or journals and allowing for the increasing use of Internet capabilities. This section broadens the opportunities for the public to receive notice, beyond mail or publication.

Section 7 conforms Article 4 of the Administrative Procedure Act - dealing with the procedure for adopting regulations.

Section 8 amends the contents of public notices, to allow for abbreviated notices in print. AS 44.62.200(a)(7) replaces AS 44.62.190(d). **AS 44.62.190(d) is repealed in Section 12.**

Abbreviated notices will only include:

- 1) a statement of the time, place, and nature of proceedings for adoption, amendment, or repeal of the regulation; (*current law*)
- 2) other matters prescribed by a statute applicable to the specific agency or to the specific regulation or class of regulations; (*current law*)
- 3) a brief general description of the proposed subject of agency action, how more detailed information may be obtained, and the name of the agency contact person. (*new language*)

Sec. 44.62.170. Form of publication. [Repealed, § 2 ch 57 SLA 1969.]

Sec. 44.62.175. Alaska administrative journal. (a) The lieutenant governor shall publish or contract for the publication of the Alaska Administrative Journal. The journal shall be published weekly. The journal must include

- (1) notices of proposed actions given under AS 44.62.190(a);
- (2) notices of state agency meetings required under AS 44.62.310(e), even if the meeting has been held;
- (3) notices of solicitations to bid issued under AS 36.30.130;
- (4) notices of state agency requests for proposals issued under AS 18.55.255, 18.55.320, AS 36.30.210; AS 37.05.316; AS 38.05.120; and AS 43.40.010;
- (5) executive orders and administrative orders issued by the governor;
- (6) written delegations of authority made by the governor or the head of a principal department under AS 44.17.010;
- (7) the text or a summary of the text of a regulation or order of repeal of a regulation for which notice is given under AS 44.62.190(a), including an emergency regulation, repeal whether or not it has taken effect;
- (8) a summary of the text of recently issued formal opinions and memoranda of advice of the attorney general;
- (9) a list of vacancies on boards, commissions, and other bodies whose members are appointed by the governor; and
- (10) in accordance with AS 39.52.240(h), advisory opinions of the attorney general.

(b) The issuer of a notice, order, delegation, text, summary, or list in (a) of this section shall send a copy to the lieutenant governor in a computer-readable magnetic medium in a format prescribed by the lieutenant governor.

(c) The lieutenant governor shall provide to the Legislative Affairs Agency the text of each issue of the journal in a computer-readable magnetic medium compatible with the legislative data processing system. The Legislative Affairs Agency shall retain the text of each issue of the journal in a computer-readable magnetic medium.

(d) The lieutenant governor shall sell individual copies of and subscriptions to the journal at a price reasonably calculated to offset the cost of publication and distribution.

(e) A person may not maintain an action based on publication or lack of publication in the journal.

(f) In this section

- (1) "journal" means the Alaska Administrative Journal; and
- (2) "publish" means to make available to the public
 - (A) through the legislative data processing system; and
 - (B) in printed form. (§ 2 ch 59 SLA 1985; am § 5 ch 87 SLA 1986; am § 48 ch 106 SLA 1986; am § 80 ch 138 SLA 1986; am § 76 ch 14 SLA 1987; am § 22 ch 90 SLA 1991)

Revisor's notes. — To correct manifest errors in (a)(4) of this section, a reference to AS 46.11.030 was deleted in 1985 because that section was repealed in 1983, and in 1986 a reference to AS 37.05.316 was substituted for a reference to AS 37.05.315(d).

Cross references. — For legislative findings, see

§ 1, ch. 59, SLA 1985 in the Temporary and Special Acts.

Effect of amendments. — The 1991 amendment, effective July 3, 1991, in subsection (d), deleted the former last two sentences.

Article 4. Procedure for Adopting Regulations.



Official Business


Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1132

MEMORANDUM

To: Senator Robin Taylor, Chair
Senate Judiciary Committee

From: Senator Sean Parnell, Co-chair
Senate Finance Committee 

Re: Senate Bill 277, elimination of the Alaska Administrative Journal

Date: February 22, 2000

I am respectfully submitting this request for a hearing on SB 277, an Act relating to the elimination of the Alaska Administrative Journal (AAJ) and the establishment of the Alaska Online Public Notice System. A sponsor statement and sectional analysis are attached for your review.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sectional Analysis SB 277

An Act relating to the elimination of the Alaska Administrative Journal (AAJ) and the establishment of the Alaska Online Public Notice System

Section 1

Replaces requirement in the state procurement code that invitations to bid be published in the AAJ with a requirement that they be published on the Alaska Online Public Notice System.

Section 2

Replaces requirement that certain advisory opinions of the attorney general be published in the AAJ with a requirement that they be published on the Alaska Online Public Notice System.

Section 3

Repeals the AAJ section in the Administrative Procedures Act and replaces it with provisions that public notices be published on the Online Public Notice System.

All notices now required to be published in the AAJ will be required to be published online. Those notices include:

- a.) Adoption, amendment or repeal of regulations.
- b.) State agency meetings that must be publicly noticed.
- c.) Invitations to bid required to be noticed under provisions of the state procurement code.
- d.) Notices of state RFPs issued under statutes related to housing and urban renewal, state procurement code, grants to named recipients, public land and the motor fuel tax.
- e.) Executive orders and administrative orders issued by the Governor.
- f.) Written delegations of authority made by the Governor and commissioners of state departments.
- g.) Text or summary of the text of regulations that are noticed under the Administrative Procedures Act.

- h.) Notices required under the Administrative Procures Act related to documents and materials incorporated by reference in a regulation.
- i.) Summaries of the text of recently issued formal opinions and advice memos from the attorney general and the entire text of certain opinions.
- j.) Vacancies on boards and commissions whose members are appointed by the Governor.

This section specifies that the Lieutenant Governor supervise the system and establish the form for notices. It also requires the Lieutenant Governor ensure that a permanent, public, electronic archive of notices published on the system be made available to the public.

Section 4

Amends the portion of the Administrative Procedures Act dealing with adoption and/or changes of regulations to delete the AAJ and insert the Online Public Notice System.

Section 5

Amends section of the Administrative Procedures Act dealing with contents of notices to delete reference to the AAJ and insert reference to the Online Public Notice System.

Section 6

Amends section of the Administrative Procedures Act relating to material incorporated by reference into regulations to delete requirement for notice in the Administrative Journal and insert requirement for publishing on the Online Public Notice System.

Section 7

Amends section of Administrative Procedure Act dealing with public meetings to delete reference to publication in the AAJ and insert reference to publication on the Online Public Notice System.

Section 8

Instructs reviser to delete all references in the Alaska Administrative Code to the Alaska Administration Journal and replace it with Alaska Online Public Notice System.

Section 9

Immediate effective date.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement

Senate Bill 277

An Act relating to the elimination of the Alaska Administrative Journal (AAJ) and the establishment of the Alaska Online Public Notice System

- **The Alaska Administrative Journal has served as a compilation of public notices from state agencies, the great majority of which are also required to be published in the print or broadcast media.**
- **Alaska Administrative Journal subscriptions have dramatically declined with the advent of state government making information available to the public on the Internet. Since 1993, circulation has dropped from 125 paying subscribers (\$90 a year) to 9 out-of-state businesses. They are: PHICO Ins. Co, RIA Group, Mills Publishing Co., Bureau of National Affairs, West Group, University of Iowa, American Council of Life Insurance, Ailstate Insurance Company and CCH Inc.**
- **Administrative Order 183 requires all state agencies to post statutorily required public notices on the new Online Public Notice system. The system provides the public with a convenient way to find all public notices in one place on the state web page. The Online Public Notice website is organized in a similar format to the Alaska Administrative Journal.**
- **This legislation would eliminate the requirement that the Lt. Governor's Office produce the Alaska Administrative Journal and replace it with a requirement that the Lt. Governor provide oversight of the Online Public Notice system. It requires agencies by statute to post their public notices in the Online Public Notice system.**
- **Senate Bill 277 has a zero fiscal note.**

SB

286

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SB 286

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "An Act relating to the duties and powers of BRU Criminal Division/Civil Division
the attorney general." Component All
 Sponsor Senate Judiciary Committee
 Requester Senate Judiciary Committee Component No. _____

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						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 286 amends AS 43.23.020, relating to the powers and duties of the attorney general. This bill may generate additional litigation over the attorney general's authority. Our opponents in litigation will use this language as another tool. Whether or not they are successful in their arguments, time must be expended to respond to the inevitable challenges. The Department of Law has no way of estimating how often the issue might arise, or how much time and expense would be necessary to respond.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone 465-5370
 Division Attorney General's Office Date/Time 3/8/00, 4:02 PM
 Approved by Commissioner *Bruce M. Boteelho* Bruce M. Boteelho, Attorney General Date 3/8/00
 Agency Department of Law

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 23, 2000

SUBJECT: CSSB 286(JUD) (Work Order No. 1-LS1512\G)

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee
Attn: Sue Mossgrove

FROM: Kathryn L. Kurtz *KK*
Legislative Counsel

Enclosed is the bill you requested, in final form.

The purpose of this memo is to explain why this version looks different than the previous draft.

The deletion of the words "state, including the" in line 5 of the previous version of the bill (1-LS1512\A) means that there is no longer any substantive change to AS 44.23.020(a). The change to the catch line deleting the word "and" is not substantive; that is a clean-up change made by this office. The catch line is not law. Since there is no substantive change, subsection (a) should not be included in the bill. The enclosed version reflects this.

The new subsection relating to the power of the attorney general to settle actions, on page 2 line 15 of the \A version, is being added as a new subsection (d), rather than subsection (c). This re-ordering will not change the legal effect of the bill. There may be a logical preference, however, to place this more general material before the existing date-specific material dealing with title to submerged lands in the current subsection (c).

If this is the case, and the bill is enacted, you may request that the revisor re-letter these subsections so that the new material on settling actions comes before the existing subsection on title to submerged lands by simply sending a letter to the revisor. The revisor is empowered to renumber parts of sections under AS 01.05.031.

These changes shorten the bill, and will, we hope, make it easier for the reader to quickly identify what is being changed. Thank you for your understanding. Please call me if you have any questions.

KLK:pl
00-107.plm

SENATE BILL NO. 286

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Introduced: 2/28/00

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the duties and powers of the attorney general."

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

3 * Section 1. AS 44.23.020 is amended to read:

amend #1
5

4 Sec. 44.23.020. Duties; [AND] powers; waiver of immunity. (a) The
5 attorney general is the legal advisor of the state, including the governor and other
6 state officers.

amend #2
remember
8

(b) The attorney general shall defend the C. of SOA

9 (1) bring, prosecute, and defend all necessary and proper actions in the
10 name of the state for the collection of revenue;

11 (2) represent the state in all civil actions in which the state is a party;

12 (3) prosecute all cases involving violation of state law, and file
13 informations and prosecute all offenses against the revenue laws and other state laws
14 where there is no other provision for their prosecution;

15 (4) administer state legal services, including the furnishing of written
legal opinions to the governor, the legislature, and all state officers and departments

1 as the governor directs; and give legal advice on a law, proposed law, or proposed
 2 legislative measure upon request by the legislature or a member of the legislature;
 3 (5) draft legal instruments for the state;
 4 (6) make available a report to the legislature, through the governor, at
 5 each regular legislative session
 6 (A) of the work and expenditures of the office; and
 7 (B) on needed legislation or amendments to existing law;
 8 (7) perform all other duties required by law [OR WHICH USUALLY
 9 PERTAIN TO THE OFFICE OF ATTORNEY GENERAL IN A STATE]; and
 10 (8) prepare, publish, and revise as it becomes useful or necessary to do
 11 so an information pamphlet on landlord and tenant rights and the means of making
 12 complaints to appropriate public agencies concerning landlord and tenant rights; the
 13 contents of the pamphlet and any revision shall be approved by the Department of
 14 Law, division of consumer protection, before publication.
 15 *Amend #3* (c) The attorney general may ^{enact laws,} subject to the power of the legislature to
 16 make appropriations, settle actions, cases, and offenses under (b) of this section
 17 in which the attorney general represents the state and in which the state is a
 18 party.
 19 (d) Before January 1, 1999, the attorney general may, in a case that involves
 20 the state's title to submerged lands, or in any case in which the state seeks to allocate
 21 fault to the federal government or a federal employee under AS 09.17.080, waive the
 22 state's immunity from suit in federal court provided under the Eleventh Amendment
 23 to the Constitution of the United States. The expiration on January 1, 1999, of the
 24 attorney general's authority to waive the state's Eleventh Amendment immunity does
 25 not affect existing waivers in ongoing cases.

Mark K. Johnson
13631 Windward Circle
Anchorage, Alaska 99516
907-345-3850

RECEIVED
JAN 24 2000

Ans'd.....

January 19, 2000

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

Dear Robin:

Enclosed is a copy of the recommendations of the subcommittee which reviewed the Department of Law for the Commission on Privatization, along with the Department's response and some of the appendices.

I do not take the Department's response very seriously for one paramount reason: The Department is unable as an institution to view itself critically and objectively. The Department consists almost entirely of career employees with a uniform political philosophy and close loyalty to Bruce Botelho. Mr. Botelho has hired a good number of these employees and has the ability to discharge any attorney at any time for pretty much any (or no) reason.

At the risk of repeating myself: The subcommittee found, and the Department reluctantly agreed that the Attorney General is NOT a constitutional officer and that Legislature, by statute, may define the role and responsibilities of the head of the Department of Law.

The subcommittee drafted a proposed amendment to AS 44.23.010 which would limit to some degree the scope of the Attorney General's powers and clarify that his obligation as a legal advisor runs to the State of Alaska, not "the governor and other state officers." The draft legislation would also put into law that the Legislative power to make appropriations constrains and limits the Attorney General's authority to settle cases.^{1 2} Finally, the draft legislation would

¹ The power to settle litigation in my view poses great danger to the State and is the source of considerable mischief by this and previous Attorney Generals. As a recent example, as I understand it an attorney with the State with knowledge of the World Plus Travel scandal brought litigation against the State in connection with her discharge but that litigation was quickly settled. Through settlement, the State has the ability to quickly close and limit the potential for embarrassment from a variety of problems.

² Please note that this legislation does not address the authority of the Attorney General to enter into settlements of Alaska's anti-trust laws under Title 45.

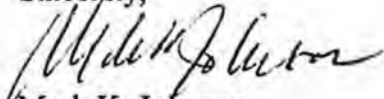
remove language which can be interpreted to vest common law powers in the Attorney General. It is my belief, and a belief shared by the subcommittee, that the Attorney General's powers should be enumerated powers – not unlimited powers.

Once it is appreciated that the Legislature can define and control the scope and powers of the Attorney General, it is interesting to consider the effect of dissolution of the office of Attorney General and the entire Department of Law. The office of State Prosecutor and Department of Prosecution could be established, which would address only criminal matters. Individual executive departments could be given authority to retain and employ counsel for needed legal services. The Governor could hire Bruce Botelho as the Governor's lawyer, which is the present situation.

Interestingly enough, under this set-up, the departmental commissioner would retain control of the legal budget of the department and the traditional relationship between client and attorney would be brought back to state government. Counsel retained in this fashion would be subject to the direction of the client – not the Attorney General. I personally believe that this arrangement would produce better results for the State of Alaska as the focus would shift to the issues presented in litigation. I would guarantee that discussions between the Governor and his department heads which touched upon legal issues would be much more substantive.

I hope this information is interesting and useful to you. Please let me know if I can answer any questions. My home phone is listed above. My work phone is 273-5290, but I am not always able to discuss non-work related matters.

Sincerely,



Mark K. Johnson

Sec. 44.23.010. Attorney general.

The principal executive officer of the Department of Law is the attorney general.

Sec. 44.23.020. Duties; and powers; waiver of immunity.

(a) The attorney general is the legal advisor of the state, including the governor and other state officers.

(b) The attorney general shall

(1) bring, prosecute, and defend all necessary and proper actions in the name of the state for the collection of revenue;

(2) represent the state in all civil actions in which the state is a party;

(3) prosecute all cases involving violation of state law, and file informations and prosecute all offenses against the revenue laws and other state laws where there is no other provision for their prosecution;

(4) administer state legal services, including the furnishing of written legal opinions to the governor, the legislature, and all state officers and departments as the governor directs; and give legal advice on a law, proposed law, or proposed legislative measure upon request by the legislature or a member of the legislature;

(5) draft legal instruments for the state;

(6) make available a report to the legislature, through the governor, at each regular legislative session

(A) of the work and expenditures of the office; and

(B) on needed legislation or amendments to existing law;

(7) perform all other duties required by law [OR WHICH USUALLY PERTAIN TO THE OFFICE OF ATTORNEY GENERAL IN A STATE]; and

(8) prepare, publish, and revise as it becomes useful or necessary to do so an information pamphlet on landlord and tenant rights and the means of making complaints to appropriate public agencies concerning landlord and tenant rights; the contents of the pamphlet and any revision shall be approved by the Department of Law, division of consumer protection, before publication.

(c) The Attorney General may, subject to the power of the legislature to make appropriations, settle actions, matters and prosecutions under subsection (b) in which the Attorney General represents the state and in which the state is a party.

(d) Before January 1, 1999, the attorney general may, in a case that involves the state's title to submerged lands, or in any case in which the state seeks to allocate fault to the federal government or a federal employee under AS 09.17.080, waive the state's immunity from suit in federal court provided under the Eleventh Amendment to the Constitution of the United States. The expiration on January 1, 1999, of the attorney general's authority to waive the state's Eleventh Amendment immunity does not affect existing waivers in ongoing cases.

SENATE BILL NO. 286

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Introduced: 2/28/00

Referred: Judiciary

*empowers the AG to defend
the Const. when conflict
between the Const & Gov.*

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the duties and powers of the attorney general."

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

3 * Section 1. AS 44.23.020 is amended to read:

4 Sec. 44.23.020. Duties; [AND] powers; waiver of immunity. (a) The
5 attorney general is the legal advisor of the state, including the governor and other
6 state officers.

7 (b) The attorney general shall

8 (1) bring, prosecute, and defend all necessary and proper actions in the
9 name of the state for the collection of revenue;

10 (2) represent the state in all civil actions in which the state is a party;

11 (3) prosecute all cases involving violation of state law, and file
12 informations and prosecute all offenses against the revenue laws and other state laws
13 where there is no other provision for their prosecution;

14 (4) administer state legal services, including the furnishing of written
15 legal opinions to the governor, the legislature, and all state officers and departments

1 as the governor directs; and give legal advice on a law, proposed law, or proposed
2 legislative measure upon request by the legislature or a member of the legislature;

3 (5) draft legal instruments for the state;

4 (6) make available a report to the legislature, through the governor, at
5 each regular legislative session

6 (A) of the work and expenditures of the office; and

7 (B) on needed legislation or amendments to existing law;

8 (7) perform all other duties required by law [OR WHICH USUALLY
9 PERTAIN TO THE OFFICE OF ATTORNEY GENERAL IN A STATE]; and

10 (8) prepare, publish, and revise as it becomes useful or necessary to do
11 so an information pamphlet on landlord and tenant rights and the means of making
12 complaints to appropriate public agencies concerning landlord and tenant rights; the
13 contents of the pamphlet and any revision shall be approved by the Department of
14 Law, division of consumer protection, before publication.

15 (c) The attorney general may, subject to the power of the legislature to
16 make appropriations, settle actions, cases, and offenses under (b) of this section
17 in which the attorney general represents the state and in which the state is a
18 party.

19 (d) Before January 1, 1999, the attorney general may, in a case that involves
20 the state's title to submerged lands, or in any case in which the state seeks to allocate
21 fault to the federal government or a federal employee under AS 09.17.080, waive the
22 state's immunity from suit in federal court provided under the Eleventh Amendment
23 to the Constitution of the United States. The expiration on January 1, 1999, of the
24 attorney general's authority to waive the state's Eleventh Amendment immunity does
25 not affect existing waivers in ongoing cases.

SB

294

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 3/21/00

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered

SENATE BILL NO. 294

"An Act relating to the possession of concealed handguns and to concealed handgun permits."

and recommends:

be replaced with _____ CS SB 294 (JUD)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

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

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

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>DPS</i>	<i>3/29/00</i>	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

1-LS1543\G
Luckhaupt
3/24/00

*accepted
3/29/00*

Jud

CS FOR SENATE BILL NO. 294

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the possession of concealed handguns and to concealed
2 handgun permits."

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

4 * Section 1. AS 11.61.220(b) is amended to read:

5 (b) In a prosecution under (a)(1) of this section, it is an affirmative defense
6 that the defendant, at the time of possession, was

7 (1) in the defendant's dwelling or on land owned or leased by the
8 defendant appurtenant to the dwelling;

9 (2) actually engaged in lawful hunting, fishing, trapping, or other lawful
10 outdoor activity that necessarily involves the carrying of a weapon for personal
11 protection;

12 (3) the holder of a valid permit to carry a concealed handgun under
13 AS 18.65.700 - 18.65.790 and [,] the weapon was a concealed handgun as defined in
14 AS 18.65.790 [, AND THE POSSESSION DID NOT OCCUR IN A MUNICIPALITY

1 OR ESTABLISHED VILLAGE IN WHICH THE POSSESSION OF CONCEALED
2 HANDGUNS IS PROHIBITED UNDER AS 18.65.780 - 18.65.785]; or

3 (4) considered a permittee under AS 18.65.748 and

4 [(A)] the weapon was a concealed handgun as defined in
5 AS 18.65.790 [; AND

6 (B) THE POSSESSION DID NOT OCCUR IN A
7 MUNICIPALITY OR ESTABLISHED VILLAGE IN WHICH THE
8 POSSESSION OF CONCEALED HANDGUNS IS PROHIBITED UNDER
9 AS 18.65.780 - 18.65.785].

10 * Sec. 2. AS 11.61.220(d) is amended to read:

11 (d) In a prosecution under (a)(2) of this section, it is

12 (1) an affirmative defense that

13 (A) the defendant, at the time of possession, was the holder of
14 a valid permit to carry a concealed handgun under AS 18.65.700 - 18.65.790
15 or was considered a permittee under AS 18.65.748;

16 (B) the loaded firearm was a concealed handgun as defined in
17 AS 18.65.790; and

18 (C) the possession occurred at a place designated as a restaurant
19 for the purposes of AS 04.16.049 and the defendant did not consume
20 intoxicating liquor at the place; [AND

21 (D) THE POSSESSION DID NOT OCCUR IN A
22 MUNICIPALITY OR ESTABLISHED VILLAGE IN WHICH THE
23 POSSESSION OF CONCEALED HANDGUNS IS PROHIBITED UNDER
24 AS 18.65.780 - 18.65.785;]

25 (2) a defense that the defendant, at the time of possession, was on
26 business premises

27 (A) owned by or leased by the defendant; or

28 (B) in the course of the defendant's employment for the owner
29 or lessee of those premises.

30 * Sec. 3. AS 18.65.700(a) is amended to read:

31 (a) The department shall issue a permit to carry a concealed handgun to a

1 person who

2 (1) applies in person at an office of the Alaska State Troopers;

3 (2) qualifies under AS 18.65.705;

4 (3) submits a completed application on a form provided by the
5 department, that provides the information required under AS 18.65.705 and 18.65.710
6 [AND IS EXECUTED UNDER OATH]; with each application form provided by the
7 department, the department shall provide a copy of the state laws and regulations
8 relating to concealed handguns, which must include a concise summary of where,
9 when, and by whom a handgun can be carried under state and federal law;

10 (4) submits two complete sets of fingerprints on Federal Bureau of
11 Investigation approved fingerprint cards that are of sufficient quality so that the
12 fingerprints may be processed; the fingerprints must be taken by a person, group, or
13 agency approved by the department; the department shall maintain a list of persons,
14 groups, or agencies approved to take fingerprints and shall provide the list to the
15 public upon request;

16 (5) submits evidence of successful completion of a handgun course
17 [COMPETENCE WITH HANDGUNS] as provided in AS 18.65.715;

18 (6) provides two frontal view color photographs of the person taken
19 within the preceding 30 days that include the head and shoulders of the person and are
20 of a size specified by the department;

21 (7) shows a valid Alaska driver's license or identification card at the
22 time of application;

23 (8) does not suffer a physical infirmity that prevents the safe handling
24 of a handgun; and

25 (9) pays the application fee required by AS 18.65.720.

26 * Sec. 4. AS 18.65.700(d) is amended to read:

27 (d) A permit issued under (a) of this section is valid for five years from the
28 date of issue. [THE PERMIT MUST SPECIFY THE ACTION TYPES AND
29 MAXIMUM CALIBERS OF HANDGUN DESCRIBED IN THE PERMITTEE'S
30 CERTIFICATE OF COMPETENCY UNDER AS 18.65.715 BUT MAY NOT
31 SPECIFICALLY IDENTIFY A HANDGUN BY MAKE, MODEL, OR SERIAL

1 NUMBER.]

2 * Sec. 5. AS 18.65.705 is amended to read:

3 Sec. 18.65.705. **Qualifications to obtain a permit.** A person is qualified to
4 receive and hold a permit to carry a concealed handgun if the person

5 (1) is 21 years of age or older;

6 (2) is eligible to own or possess a handgun under the laws of this state
7 and under federal law;

8 (3) is a resident of the state and has been for the 90 days immediately
9 preceding the application for a permit;

10 (4) has not been convicted of two or more class A misdemeanors of
11 this state or similar laws of another jurisdiction within the six years immediately
12 preceding the application;

13 (5) is not now in and has not in the three years immediately preceding
14 the application been ordered by a court to complete an alcohol or substance abuse
15 treatment program; and

16 (6) has successfully completed a handgun course [DEMONSTRATED
17 COMPETENCE WITH HANDGUNS] as provided in AS 18.65.715.

18 * Sec. 6. AS 18.65.710(a) is amended to read:

19 (a) The application for a permit to carry a concealed handgun must contain the
20 following information:

21 (1) the applicant's name, physical residence, mailing address, place and
22 date of birth, physical description, including height, weight, race, hair color, and eye
23 color, Alaska driver's license or identification card number, and the city and state of
24 each place the applicant has resided in the five years immediately preceding the
25 application;

26 (2) a statement that the applicant qualifies under AS 18.65.705;

27 (3) a statement that the applicant has been furnished with a copy of the
28 state laws and regulations relating to concealed handguns, has read those sections, and
29 understands them;

30 (4) a statement that the applicant desires a permit to carry a concealed
31 handgun for a lawful purpose, which may include self-defense;

1 (5) a [SWORN] statement by the applicant that all statements, answers,
2 and attachments to the application are true and complete;

3 (6) a conspicuous warning that [THE APPLICATION IS EXECUTED
4 UNDER OATH AND THAT] an applicant who supplies a false statement, answer, or
5 document, in connection with the application that the applicant does not believe to be
6 true, may be prosecuted for unsworn falsification [PERJURY UNDER AS 11.56.200]
7 and, if found guilty, may be punished for violation of a class A misdemeanor [B
8 FELONY], and that, in such cases, the permit shall be revoked and the applicant may
9 be barred from any further application for a permit; and

10 (7) a statement that the applicant understands that a permit eligibility
11 investigation will be conducted as a part of the application process, that this may
12 involve computerized records searches, and that the applicant authorizes the
13 investigation.

14 * Sec. 7. AS 18.65.715(a) is amended to read:

15 (a) An applicant for a permit to carry a concealed handgun shall provide a
16 certificate of successful completion of a handgun course that is approved by the
17 department. [THE CERTIFICATE MUST STATE THE ACTION TYPE AND
18 CALIBER OF HANDGUN OR HANDGUNS THE APPLICANT HAS
19 DEMONSTRATED COMPETENCE WITH AND THAT THE APPLICANT MAY BE
20 PERMITTED TO CARRY. A PERMITTEE MAY ONLY CARRY AS A
21 CONCEALED HANDGUN AN ACTION TYPE OF HANDGUN DESCRIBED IN
22 THE CERTIFICATE. A PERMITTEE MAY ONLY CARRY AS A CONCEALED
23 HANDGUN THE CALIBER OF THE ACTION TYPE THAT THE PERMITTEE
24 DEMONSTRATED COMPETENCE WITH OR ANY LESSER CALIBER OF THE
25 SAME ACTION TYPE.] The handgun course must have been completed within the
26 12 months immediately preceding the application. The department shall approve a
27 handgun course, including the personal protection course offered by the National Rifle
28 Association, if the course tests the applicant's

29 (1) knowledge of Alaska law relating to firearms and the use of deadly
30 force;

31 (2) familiarity with the basic concepts of the safe and responsible use

1 of handguns; and

2 (3) knowledge of self-defense principles [: AND

3 (4) PHYSICAL COMPETENCE WITH EACH ACTION TYPE OF
4 HANDGUN THE APPLICANT WISHES TO CARRY UNDER THE PERMIT AND
5 THE MAXIMUM CALIBER FOR EACH ACTION TYPE THE APPLICANT
6 WISHES TO CARRY UNDER THE PERMIT].

7 * Sec. 8. AS 18.65.715 is amended by adding a new subsection to read:

8 (e) A member of the Alaska state troopers may participate in or conduct
9 handgun courses.

10 * Sec. 9. AS 18.65.725(a) is amended to read:

11 (a) A permittee shall apply in person for renewal of a permit to carry a
12 concealed handgun within 90 days before the expiration of the permit and shall present
13 a complete renewal form provided by the department. The renewal form shall be
14 submitted under oath and must include

15 (1) any change in the information originally submitted under
16 AS 18.65.710;

17 (2) a statement that the person remains qualified to receive and hold
18 a permit to carry a concealed handgun under AS 18.65.705;

19 (3) [REPEALED

20 (4)] two frontal view photographs of the person taken within the
21 preceding seven years [30 DAYS] that include the head and shoulders of the person
22 and are of a size specified by the department; and

23 ~~(4)~~ [(5)] the renewal fee required under AS 18.65.720.

24 * Sec. 10. AS 18.65.725(c) is amended to read:

25 (c) A renewal of a permit to carry a concealed handgun submitted on or after
26 the expiration date is subject to a late fee of \$25. The department may not accept a
27 renewal for a permit that is submitted more than 60 [30] days after the expiration date
28 of the permit. Nothing in this subsection prohibits the holder of an expired permit
29 from applying for a new permit.

30 * Sec. 11. AS 18.65.730 is amended to read:

31 Sec. 18.65.730. Replacement of permit. The department may replace a

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permit that the permittee certifies under oath has been lost, stolen, or destroyed, provided the permittee applies in person and

(1) provides two frontal view photographs of the permittee taken within the preceding seven years [30 DAYS] that include the head and shoulders and are of a size specified by the department;

(2) [SUBMITS TO THE TAKING OF A SINGLE THUMB OR FINGERPRINT BY THE DEPARTMENT TO COMPARE AGAINST THE FINGERPRINT ORIGINALLY SUBMITTED WITH THE APPLICATION; AND

(3)] pays the replacement fee required under AS 18.65.720.

* Sec. 12. AS 18.65.740(a) is amended to read:

(a) A permit to carry a concealed handgun shall be immediately revoked by the department when the permittee

(1) becomes disqualified to receive and hold a permit under AS 18.65.705;

(2) is convicted of two class A misdemeanors of this state or similar laws of another jurisdiction within a six-year period if at least one of the convictions occurs after the application;

(3) knowingly supplied a false or fraudulent answer, statement, or document, or made a material misstatement or omission, in connection with an application for a permit or renewal or replacement of a permit.

* Sec. 13. AS 18.65.748 is amended to read:

Sec. 18.65.748. Permit holders from other jurisdictions considered Alaska permit holders. A person holding a valid permit to carry a concealed handgun from another state or a political subdivision of another state with permit requirements similar to [AT LEAST AS STRICT AS] those in AS 18.65.700 - 18.65.790 is a permittee under AS 18.65.700(b) for purposes of AS 18.65.750 - 18.65.765 if the person has not been in Alaska for more than 120 consecutive days. In this section, "permit requirements similar to those in AS 18.65.700 - 18.65.790" means that, in order to receive and hold the permit in the other state or political subdivision, the person must

(1) be at least 21 years of age;

- 1 (2) be eligible to own or possess a handgun under state or federal
2 law;
3 (3) successfully complete some type of handgun or firearms safety
4 course; and
5 (4) be subject to a fingerprint-based criminal records search.

6 * Sec. 14. AS 18.65.760(a) is amended to read:

7 (a) The holder of a permit issued under AS 18.65.700 - 18.65.790 may not

8 (1) alter the permit;

9 (2) allow another person to use the permit;

10 (3) possess or display a suspended or revoked permit; or

11 (4) display an expired permit, unless the holder has submitted a

12 complete, timely renewal form under AS 18.65.725 and the renewal process has

13 been delayed due to circumstances not under the control of the applicant.

14 * Sec. 15. AS 18.65.778 is amended to read:

15 Sec. 18.65.778. Municipal preemption. A municipality may not restrict the
16 carrying of a concealed handgun by permit under AS 18.65.700 - 18.65.790 [EXCEPT
17 AS PROVIDED IN AS 18.65.780 - 18.65.785].

18 * Sec. 16. AS 18.65.715(c), 18.65.725(b), 18.65.765(a)(4), 18.65.780, 18.65.785,
19 18.65.790(2), 18.65.790(5), and 18.65.790(6) are repealed.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CS for SB294 (Jud)

Revision Date _____	Dept. Affected <u>Public Safety</u>	
Title <u>Relating to the possession of concealed handguns and to concealed handgun permits.</u>	BRU <u>AK. State Trooper - Detachments</u>	
Sponsor <u>Senate Judiciary Committee</u>	Component <u>AK. State Trooper - Detachments</u>	
Requester <u>Senate Judiciary Committee</u>	Component No. <u>2325</u>	

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill is not expected to have a budgetary impact.

Prepared by: <u>Royce Weller, Special Assistant</u>	Phone <u>465-2649</u>
Division <u>Office of the Commissioner</u>	Date/Time <u>3/29/00 12:00 AM</u>
Approved by Commissioner <u>Ronald L. Otte</u>	Date <u>3/29/00</u>
Agency <u>Department of Public Safety</u>	

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Juneau, AK 99801-1182
(907) 465-3717
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Senate Judiciary Committee

Sponsor Statement CS FOR SENATE BILL 294

“An Act relating to the possession of concealed handguns and to concealed handgun permits”

Since its passage, Alaska’s concealed carry law has been one of the most successful programs in the United States. That success is based, in part, on the original intent of the legislation to allow only knowledgeable, law-abiding citizens to obtain state permits to carry concealed handguns. Although the program has been successful, there are several recurring problems with the implementation and management of the state’s program. SB 294 proposes statutory changes to improve and streamline the process to obtain and renew a concealed handgun permit.

CS for SB 294 will eliminate some of the cumbersome and unnecessary language written into the statute: applicants will no longer be required to have a sworn application; permit holders will be allowed to submit their renewal applications 60 days prior to expiration, rather than 30 days, thus allowing more time to complete the renewal process before the expiration date; a new photograph will be required every ten years, instead of every five (same as for a state driver’s license); additional thumb prints will no longer be required during the renewal process, as prints never change.

The bill also makes changes to some of the training and education statutes, streamlining the process and making reciprocity with other states more attainable. The applicant will be required to provide evidence of completion of a handgun or firearms safety course, but eliminates the more subjective requirement by eliminating the specific statutory definition of “competence,” which is causing problems with reciprocity and/or recognition with other states. Alaska State Troopers now will be authorized by statute to help teach handgun courses, which may generate additional revenue.

In addition, SB 294 makes the statute apply equally to all citizens statewide and clarifies the standards for recognition of permits from other states.

SB 294 streamlines and improves a program that has been, and will continue to be, a success for Alaska.

CSSB 294
SECTIONAL

- Section 1-2** Deletes criminal offense of possession of a concealed handgun while in a local community with an opt-out ordinance.
- Section 3** Deletes statutory requirement that the application be executed under oath.
- Section 4** Deletes requirement to list specific action type and caliber on permit.
- Section 5** Amends qualifications to obtain a permit to: "has successfully completed a handgun course."
- Section 6** Deletes warning that the application is executed under oath and changes the penalty for providing known false or inaccurate information from perjury to unsworn falsification
- Section 7** Deletes requirement for specific action type and caliber of handgun and deletes the requirement that the applicant physically demonstrate competence with specific action type and caliber.
- Section 8** Gives statutory authority for Alaska State troopers to participate in handgun courses.
- Section 9** Amends permit renewal requirements to provide a new photograph every seven years (every other renewal), instead of every five years.
- Section 10** Amends permit renewal process to allow an applicant to file for a renewal of the permit for up to 60 days after the expiration date of the permit.
- Section 11** Amends replacement of permit process to provide a photograph taken within the previous seven years, instead of within the preceding 30 days.
- Section 12** Revocation of permit (no changes to current law).
- Section 13** Expands and better defines guidelines for recognition of permit holders from other jurisdictions.
- Section 14** Provides for an exception to expired permit penalty if the applicant has filed in a timely manner for a permit renewal and has not yet received the permit from the state of Alaska.
- Section 15** Deletes local opt-out provisions of municipal preemption statute.
- Section 16** Repeals sections to conform to the changes made throughout the bill.

SB294

TC# 10643

PAGE ONE SECTION 3. WHY HAVE
A HAND GUN PERMIT. IF IT CAN BE
OUTLAWED AT A MUNICIPALITY OR
VILLAGE.

IT PUTS THE PERMIT HOLDER
UNDER A CATCH 22 SITUATION.

PAGE 6 SECTION 9 AS 1865.725A
WHY SHOULD YOU HAVE TO APPLY
FOR A PERMIT 3 MONTHS IN ADVANCE

BILL 294

MR EIZIE ISLEY
2533 3RD AVE
KETCHIKAN AK 99901



Alaska State Legislature

Please enter into the record my testimony to the (S) Judiciary
 committee name
 committee on SP 294, dated 3/29/00
 bill/subject

PLEASE VOTE TO MOVE THIS BILL TO THE FLOOR IN ITS PRESENT FORM. THE MOST IMPORTANT IMPROVEMENTS ALLOWED BY THIS BILL WILL BENEFIT ALASKA CITIZENRY IN THE AREA OF EXERCISE OF THE USE OF THESE PERMITS IN OTHER STATES. AGAIN PLEASE SUPPORT THIS BILL AND MOVE FROM COMMITTEE.

THANK YOU RAY HALLEY

Signed: Ray Halley Raymond Halley
 Testifier

Representing (Optional)
Box 1515 VALDEZ AK 99686
 Address
907 335-2181
 Phone No



Alaska State Legislature

Please enter into the record my testimony to the SENATE JUDICIARY
 committee name
 committee on SB 294, dated 3-29-00
 bill/subject

PLEASE SUPPORT
 SB 294

Signed: STAN & KAREN TUCKER
 Testifier

Representing (Optional)
1001 LELLWOOD ST. WASILLA AK
 Address 99654
373-7139
 Phone No.



Alaska State Legislature Written Testimony Form

Please enter into the record my testimony to the STUD Committee on
(Committee Name)
SB 294, dated 3.29.00
(bill/subj)

~~Sec~~

This bill sucks. You are not trying to help the people retain their right to bear arms. You're infringing on their rights by misrepresenting the constitution. Stop trying to usurp the constitution. Uphold it, repeal all the feel good gun bills. You're setting us up for a police state. There is no sane reason to have a concealed carry permit or license to defend yourself.

Testifier Signature

Eric Weathers per phone to LW

Representing: (Optional)

—

Address

Third Judicial Dist. Deep Bay, Hawkins
c/o PO Box 1791 Cordova, AK 99574 Island

Phone Number

(907) 424-3745



Alaska State Legislature Written Testimony Form

Please enter into the record my testimony to the SJUD Committee on
SB 294, dated 3.29.00
← (bill/subj) (Committee Name)

Denny

This bill is unconstitutional. Nowhere in article 1 section 19 of the state constitution does it say the people or the individual have the right to bear arms if: the person is 21 years of age, shows a state driver's license, pays an application fee, takes an NRA course, provides finger prints to the FBI, provides two frontal view photographs along with place and date of birth, physical description, including height, weight, race, hair and eye color. No that is not what the state constitution says, in fact what it says is ... "the right of the people to keep and bear arms shall not be infringed. The individual right to keep and bear arms shall not be denied or infringed by the state or a political sub-division of the state." Uphold the constitution as it is written. Repeal all gun bills. Quit trying to make the people of Alaska criminals.

Testifier Signature

Denny K. Weathers per phone to LIO

Representing: (Optional)

Address

THIRD Judicial Dist. Deep Bay Hawkins Island
c/o PO Box 1791 Cordova, AK 99574

Phone Number

(907) 424-3745



Alaska State Legislature

Please enter into the record my testimony to the

SENATE JUDICIARY
committee name

committee on

SB 294
bill/subject

, dated

3-29-00

PLEASE SUPPORT

SB 294

RECEIVED
APR 3 2000
Ans'd.....

Signed: STAN & KAREN TUCKER
Testifier

Representing (Optional)

1001 HELLWOOD ST. WASILLA AK

Address

373-7139

Phone No.

99654

SB

300

SENATE BILL NO. 300

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Introduced: 3/29/00

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to services and information available to pregnant women and
2 other persons; and requiring informed consent and a 24-hour waiting period
3 before an abortion may be performed unless there is a medical emergency."

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

5 * **Section 1.** AS 18.05 is amended by adding a new section to read:

6 **Sec. 18.05.032. Information relating to unborn children and abortion. (a)**

7 The department shall obtain or prepare written information that

8 (1) contains geographically-indexed material designed to inform a
9 person of public and private agencies and services, including adoption agencies, that
10 are available to assist a woman through a pregnancy, at childbirth, and while the child
11 is dependent; the material must include a comprehensive list of the agencies, a
12 description of the services they offer, and the manner in which the agencies may be
13 contacted, including telephone numbers; in addition to this written material, the
14 department, through a toll-free 24-hour-a-day telephone number, shall orally provide

1 a list and description of agencies that are in the locality of the caller;

2 (2) provides information on the availability of medical assistance
3 benefits for prenatal care, childbirth, and neonatal care;

4 (3) states that a person may not lawfully coerce a woman to undergo
5 an abortion;

6 (4) states that a physician who performs or induces an abortion on a
7 woman without obtaining the woman's informed consent may be liable to the woman
8 for damages in a civil action;

9 (5) states that the father of a child is liable to assist in the support of
10 the child even in instances where the father has offered to pay for an abortion, and that
11 the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal
12 care;

13 (6) is designed to inform the woman of the anatomical and
14 physiological characteristics of a typical unborn child at two-week gestational
15 increments from fertilization to full term, including photographs representing the
16 development of unborn children at two-week gestational increments and relevant
17 information about the possibility of an unborn child's survival at the various
18 gestational ages; the photographs must contain the dimensions of the fetus and shall
19 be realistic and appropriate for the woman's stage of pregnancy; the information must
20 be objective, nonjudgmental, and designed to convey only accurate scientific
21 information about unborn children at various gestational ages;

22 (7) contains objective information that describes the methods of
23 abortion procedures and treatments commonly employed, the medical risks commonly
24 associated with each procedure and treatment, the possible detrimental psychological
25 effects of abortion, and the medical risks commonly associated with carrying an
26 unborn child to term; the information about the medical risks commonly associated
27 with abortion procedures and treatments must include

28 (A) when medically accurate, the risks of infection, hemorrhage,
29 breast cancer, danger to subsequent pregnancies, and infertility; and

30 (B) where appropriate, the possible adverse psychological
31 effects of an abortion.

"Implantation"

* When combined with "Implantation"

1 (b) The information required under (a) of this section must be written in easily
2 comprehensible language and must be printed in a typeface that is large enough to be
3 clearly legible.

4 (c) The department shall make the information required under (a) of this
5 section available free of charge on request and in an appropriate volume to the
6 requestor.

7 (d) In this section,

8 (1) ~~"conception"~~ means the fusion of a human spermatozoan with a
9 human ovum; *

10 (2) ~~"fertilization" has the meaning given "conception";~~

11 (3) "gestational age" means the age of the unborn child as calculated
12 from the first day of the last menstrual period of the pregnant woman;

13 (4) "pregnant" or "pregnancy" means a female reproductive condition
14 of having a developing fetus in the body from the time of conception;

15 (5) "unborn child" means the offspring of human beings from
16 conception until birth.

17 * Sec. 2. AS 18.16.010(a) is amended to read:

18 (a) An abortion may not be performed in this state unless

19 (1) the abortion is performed by a physician or surgeon licensed by the
20 State Medical Board under AS 08.64.200;

21 (2) the abortion is performed in a hospital or other facility approved for
22 the purpose by the Department of Health and Social Services or a hospital operated by
23 the federal government or an agency of the federal government;

24 (3) before an abortion is knowingly performed or induced on an
25 unmarried, unemancipated woman under 17 years of age, consent has been given as
26 required under AS 18.16.020 or a court has authorized the minor to consent to the
27 abortion under AS 18.16.030 and the minor consents; for purposes of enforcing this
28 paragraph, there is a rebuttable presumption that a woman who is unmarried and under
29 17 years of age is unemancipated; [AND]

30 (4) the woman is domiciled or physically present in the state for 30
31 days before the abortion; and

1 (5) the applicable requirements of AS 18.16.060 have been satisfied.

2 * Sec. 3. AS 18.16.010 is amended by adding a new subsection to read:

3 (h) A person who performs or induces an abortion in violation of (a)(5) of this
4 section is civilly liable to the pregnant woman for compensatory and punitive damages.

5 * Sec. 4. AS 18.16 is amended by adding a new section to read:

6 **Sec. 18.16.060. Informed consent requirements.** (a) Except in case of a
7 medical emergency, a person may not knowingly perform or induce an abortion
8 without the voluntary and informed consent of the woman on whom the abortion is to
9 be performed or induced.

10 (b) Consent to an abortion is voluntary and informed only if all of the
11 following are true:

12 (1) at least 24 hours before the abortion, the physician who is to
13 perform the abortion or the referring physician has orally informed the woman of

14 (A) the particular medical risks associated with the abortion
15 procedure to be employed; the medical risks include,

16 (i) when medically accurate, the risks of infection,
17 hemorrhage, breast cancer, danger to subsequent pregnancies, and
18 infertility; and

19 (ii) where appropriate, the possible adverse
20 psychological effects of an abortion;

21 (B) alternatives to the abortion that a reasonable patient would
22 consider material to the decision of whether or not to undergo the abortion;

23 (C) the probable gestational age of the unborn child at the time
24 the abortion is to be performed;

25 (D) the medical risks associated with carrying the unborn child
26 to term;

27 (E) the name of the physician who will perform the abortion
28 procedure;

29 (F) that medical assistance benefits may be available for
30 prenatal care, childbirth, and neonatal care; and

31 (G) that the father is liable to assist in the support of the

1 woman's child, even in instances where the father has offered to pay for the
2 abortion.

3 - (2) at least 24 hours before the abortion, the physician who is to
4 perform the abortion, the referring physician, or a person to whom the responsibility
5 has been delegated by either physician has informed the woman that

6 (A) the Department of Health and Social Services provides
7 written information that describes unborn children at various gestational ages
8 and lists the agencies that offer alternatives to abortion; and

9 (B) the woman has a right to review the written information
10 described in (A) of this paragraph and that a copy will be given to the woman
11 at no cost;

12 (3) a copy of the information described in (2)(A) of this subsection has
13 been given to the woman; and

14 (4) before the abortion,

15 (A) the woman certifies in writing that the information required
16 to be given under (1) - (3) of this subsection has been received; and

17 (B) the physician who is to perform the abortion or a
18 representative of the physician receives a copy of the written certificate
19 prescribed by (A) of this paragraph.

20 (c) In this section,

21 (1) ^{for fertilization} ~~conception~~ means the fusion of a human spermatozoan with a
22 human ovum;

23 (2) "gestational age" means the age of the unborn child as calculated
24 from the first day of the last menstrual period of the pregnant woman;

25 (3) "medical emergency" means a condition that, on the basis of the
26 physician's good faith clinical judgment, so complicates the medical condition of a
27 pregnant woman that the immediate termination of the woman's pregnancy is necessary
28 to avert the woman's death or that a delay in providing an abortion will create serious
29 risk of substantial and irreversible impairment of a major bodily function of the
30 woman;

31 (4) "pregnant" or "pregnancy" means a female reproductive condition

1 of having a developing fetus in the body from the time of conception;

2 (5) "unborn child" means the offspring of human beings from
3 conception until birth.

4 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 SEVERABILITY. Under AS 01.10.030, the provisions of this Act are severable.

Testimony of Dr. Peter Nakamura
Mr. Chair and Members: Judiciary Committee

4/5/00

- I. Thank you for the opportunity to comment on SB 300.
- II. SB 300 is introduced as (1) an act relating to services and information available to pregnant women and (2) requirement of a 24-hour waiting period prior to an abortion.
- III. As a physician with 39 years of medical experience, with 30 of those years as a health administrator, I have a high level of understanding and comfort in dealing with issues as they relate to mental health, physical health, and social well being.
- IV. Issues become much more difficult when we address personal religious and philosophical beliefs.
- V. As the State Health Officer and Director of Public Health, I struggle with SB 300 because it is an attempt to deal with philosophical issues under the pseudo coverage of A health umbrella.
- VI. Definitions of "conception", "fertilization", "pregnancy", "gestational age", and "unborn child" are modified not to guide medical and health interventions but to meet philosophical needs of those individuals in total objection to abortion.

The use of surgical procedures and medications to treat a wide variety of health conditions is dependent on a truly medical and scientific definition of terms. Many medications used to treat serious health problems are terminated at the onset of pregnancy.

The child birth process and pregnancy starts with a sequence of events that are detectable by chemical and physical changes.

True conception is not a fusion of a sperm and ovum. Fusion can take place in a petri dish or test tube and frequently takes place after a sexual act, which in most cases does not lead to pregnancy. Conception is the implantation of a developing zygote (Blastocyte) in the female body and is detectable through hormone changes in the urine.

(comment about meds ok to take until true pregnancy, including E.C.)

VII. The language of the bill imparts the false impression that physicians do not counsel women seeking abortions.

The bill also encourages the presentation of biased information about the possible complications of a surgical abortion but says nothing about the complications of carrying a pregnancy to term or those resulting from seeking an illegal abortion.

VIII. Requiring all pregnant women to view pictures of a developing fetus at 2 week increments could be psychologically harmful or distasteful in certain situations such as the medical inability to carry a pregnancy to term or the presence of a severely damaged fetus.

IX. Informed consent requirements of this bill falsely imply unsubstantiated complications such as increased cancer, greater risks of infertility, and greater adverse psychological affects associated with surgical terminations of a pregnancy.

X. SB 300 requires a 24-hour waiting period between informed consent and the procedure. This is not a requirement without significant consequences. Second trimester abortions increased by 53% in one state that imposed this requirement.

XI. As your State Health Officer and as the Director of Public Health, I interpret SB 300 as a significant barrier to medical, psychological, and public health.

Thank you.

Peter Nakamura
Director D.P.H.



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SB 300 - Informed Consent

SB 300 was introduced as a companion to HB 329 to help expedite consideration of this issue by both bodies of the legislature. I appreciate the committee's consideration of this legislation.

(3) "HIV" means the human immunodeficiency virus. (§ 1 ch 1 SLA 1994; am § 3 ch 91 SLA 1996)

Effect of amendments. — The 1996 amendment, effective September 18, 1996, inserted "or physician assistant" and deleted "physician's assistant registered under AS 08.64," following "08.64" in the last sentence of subsection (a).

Sec. 18.15.320. Cost of performing test; reimbursement. (a) The cost of performing a blood test under AS 18.15.300 shall be paid by the department.

(b) If a defendant for whom a blood test has been ordered under AS 18.15.300 is convicted of an offense for which the defendant was charged, and for which a blood test could be ordered under AS 18.15.300, the court shall order the defendant to reimburse the department for the cost of the test and may order the Department of Corrections to deduct the amount of the test from any pay the inmate receives under AS 33.30.201. (§ 1 ch 1 SLA 1994)

Article 7. General Provisions.

Section 900. Definition

Sec. 18.15.900. Definition. In this chapter, "department" means the Department of Health and Social Services. (am § 6 ch 104 SLA 1971)

Revisor's notes. — Formerly AS 18.15.190. Renumbered in 1986.

Chapter 16. Regulation of Abortions.

Section 10. Abortions
20. Consent required before minor's abortion
30. Judicial bypass for minor seeking an abortion

Section 50. Partial-birth abortions
90. Definitions

Sec. 18.16.010. Abortions. (a) An abortion may not be performed in this state unless (1) the abortion is performed by a physician or surgeon licensed by the State Medical Board under AS 08.64.200;

(2) the abortion is performed in a hospital or other facility approved for the purpose by the Department of Health and Social Services or a hospital operated by the federal government or an agency of the federal government;

(3) before an abortion is knowingly performed or induced on an unmarried, unemancipated woman under 17 years of age, consent has been given as required under AS 18.16.020 or a court has authorized the minor to consent to the abortion under AS 18.16.030 and the minor consents; for purposes of enforcing this paragraph, there is a rebuttable presumption that a woman who is unmarried and under 17 years of age is unemancipated; and

(4) the woman is domiciled or physically present in the state for 30 days before the abortion.

(b) Nothing in this section requires a hospital or person to participate in an abortion, nor is a hospital or person liable for refusing to participate in an abortion under this section.

(c) A person who knowingly violates a provision of this section, upon conviction, is punishable by a fine of not more than \$1,000, or by imprisonment for not more than five years, or by both.

(d) [Repealed, § 6 ch 14 SLA 1997.]

(e) A person who is civilly liable to the person for compensatory and punitive damages...

(f) It is an affirmative defense that the person performing the abortion with false, misleading status, or emancipated otherwise have reached the age of majority, or otherwise have reached the age of majority, or otherwise have reached the age of majority...

(g) It is an affirmative defense that the person performing the abortion because an immediate minor from the continuation of the immediate performance of an emergency means a clinical judgment, section (1) an immediate death; or

(2) a delay in performance of an irreversible impairment. (1949; am § 1 ch 103)

Revisor's notes. — Renumbered in 1978.

In 1986, the section was amended to conform to the style of the Alaska Statutes. The section was formerly the last sentence of subsection (b); and formerly the second sentence of subsection (d).

Cross references. — AS 08.64.105. Medical Board to regulate

For purpose and effect of amendment to this section in the 1997 Temporary Code...

Effect of amendment effective July 31, 1997. Repealed subsection (d).

Editor's notes. — Statutes concerning abortion: U.S. 113, 93 S. Ct. 705, 1 Bolton, 410 U.S. 179, 91 (1973), Planned Parenthood v. Casey, 428 U.S. 52, 96 S. Ct. 2 Sendak v. Arnold, 429 U.S. Ed. 2d 579 (1976), Akron v. Akron Center for Reproductive Health, Inc., 462 U.S. L. Ed. 2d 687 (1983), Title of Obstetricians and Gynecologists v. State, 90 L. Ed. 2d 3040, 106 L. Ed. 2d 344 (1990), Ohio v. American Health, 497 U.S. 502, 110 S. Ct. 1027 (1990).

Constitutionality. — Constitutional to the extent it does not violate the Equal Protection Clause. Valley Hosp. Ass'n v. State, 948 P.2d 963 (Alaska, 1997).

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(e) A person who performs or induces an abortion in violation of (a)(3) of this section is civilly liable to the pregnant minor and the minor's parents, guardian, or custodian for compensatory and punitive damages.

(f) It is an affirmative defense to a prosecution or claim for a violation of (a)(3) of this section that the pregnant minor provided the person who performed or induced the abortion with false, misleading, or incorrect information about the minor's age, marital status, or emancipation, and the person who performed or induced the abortion did not otherwise have reasonable cause to believe that the pregnant minor was under 17 years of age, unmarried, or unemancipated.

(g) It is an affirmative defense to a prosecution or claim for violation of (a)(3) of this section that compliance with the requirements of (a)(3) of this section was not possible because an immediate threat of serious risk to the life or physical health of the pregnant minor from the continuation of the pregnancy created a medical emergency necessitating the immediate performance or inducement of an abortion. In this subsection, "medical emergency" means a condition that, on the basis of the physician's or surgeon's good faith clinical judgment, so complicates the medical condition of a pregnant minor that

(1) an immediate abortion of the minor's pregnancy is necessary to avert the minor's death; or

(2) a delay in providing an abortion will create serious risk of substantial and irreversible impairment of a major bodily function of the pregnant minor. (§ 65-4-6 ACCLA 1949; am § 1 ch 103 SLA 1970; am § 22 ch 166 SLA 1978; am §§ 2, 3, 6 ch 14 SLA 1997)

Revisor's notes. — Formerly AS 11.15.060. Renumbered in 1978.

In 1986, the section was reorganized to conform to the style of the Alaska Statutes. Subsection (b) was formerly the last sentence of (a); subsection (c) was formerly (b); and former subsection (d) was formerly the second sentence of (a).

Cross references. — For power of the State Medical Board to regulate abortion procedures, see AS 08.64.105.

For purpose and findings concerning the 1997 amendment to this section, see § 1, ch. 14, SLA 1997 in the 1997 Temporary and Special Acts.

Effect of amendments. — The 1997 amendment, effective July 31, 1997, rewrote paragraph (a)(3), repealed subsection (d), and added subsections (e)-(g).

Editor's notes. — For the constitutionality of statutes concerning abortions, see *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973), *Doe v. Bolton*, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973), *Planned Parenthood of Missouri v. Danforth*, 428 U.S. 52, 96 S. Ct. 2831, 49 L. Ed. 2d 788 (1976), *Sendak v. Arnold*, 429 U.S. 968, 97 S. Ct. 476, 50 L. Ed. 2d 579 (1976), *Akron v. Akron Center for Reproductive Health, Inc.*, 462 U.S. 416, 103 S. Ct. 2481, 76 L. Ed. 2d 687 (1983), *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 106 S. Ct. 2169, 90 L. Ed. 2d 779 (1986), *Webster v. Reproductive Health Services*, 492 U.S. 490, 109 S. Ct. 3040, 106 L. Ed. 2d 410 (1989), *Hodgson v. Minnesota*, 497 U.S. 417, 110 S. Ct. 2926, 111 L. Ed. 2d 344 (1990), *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502, 110 S. Ct. 2972, 111 L. Ed. 2d

405 (1990), *Planned Parenthood of Southeastern Pennsylvania v. Casey*, U.S. , 112 S. Ct. 2791, 120 L. Ed. 2d 674 (1992). See also 1 Am. Jur. 2d, *Abortion and Birth Control*, § 3 and 1 C.J.S., *Abortion*, § 2.

Legislative history reports. — For report on ch. 103, SLA 1970 (CSSB 527 (HWE)), see 1970 Senate Journal Supplement No. 10; 1970 Journal Supplements Nos. 12 and 13. Also refer to the following relevant reports on abortion bills: 1970 Senate Journal Supplements Nos. 1 and 4 (re SB 411); 1970 House Journal Supplement No. 11 (re CSHB 776).

Opinions of attorney general. — Separation of responsibilities in AS 18.16.010 is clear: the approval of facilities is granted to the Department of Health and Social Services; the ethical and professional responsibilities of medical doctors are committed to the supervision of the State Medical Board. No language in AS 08.64.105 vitiates any of the responsibilities granted in paragraph (a)(2) to the Department of Health and Social Services. October 7, 1974 Op. Att'y Gen.

Under the language of subsection (a) only paragraph (1) is clearly constitutional; paragraph (2) could be validated by limiting its effect to abortions performed after the end of the first trimester of pregnancy; paragraph (3) is clearly unconstitutional as written; and paragraph (4) is subject to constitutional challenge, as neither the Alaskan or U.S. Supreme Court has dealt with durational residency requirements in the context of abortion. October 21, 1976 Op. Att'y Gen. (issued before the 1997 amendment of (a)(3)).

NOTES TO DECISIONS

Constitutionality. — Subsection (b) is unconstitutional to the extent it applies to quasi-public institutions. *Valley Hosp. Ass'n v. Mat-Su Coalition for Choice*, 948 P.2d 963 (Alaska 1997).

Quoted in *Cleveland v. Municipality of Anchorage*, 631 P.2d 1073 (Alaska 1981).

Cited in *Bird v. Municipality of Anchorage*, 787 P.2d 119 (Alaska Ct. App. 1990).

Collateral references. — 1 Am. Jur. 2d, Abortion and Birth Control, § 1 et seq.

1 C.J.S., Abortion, § 1 et seq.

Necessity, to warrant conviction of abortion, that fetus be living at time of commission of acts. 16 ALR2d 949.

Pregnancy as element of abortion or homicide based thereon. 46 ALR2d 1393.

Validity of statute or ordinance forbidding or regulating sale or advertisement of contraceptives or abortives, or dissemination of birth control information. 96 ALR2d 955.

Applicability in criminal proceedings of privilege as to communications between physician and patient. 7 ALR3d 1458.

Earlier prosecution for offense during which homicide was committed as bar to prosecution for homicide. 11 ALR3d 834.

Woman upon whom abortion is committed or attempted as accomplice for purposes of rule requiring corroboration of accomplice testimony. 34 ALR3d 858.

Right of action for injury to or death of woman who consented to illegal abortion. 36 ALR3d 630.

Homicide based on killing of unborn child. 40 ALR3d 444.

Minor's right to have abortion performed without parental consent. 42 ALR3d 1406.

Woman's right to have abortion without consent of, or against objections of, child's father. 62 ALR3d 1097.

Availability in state court of defense of entrapment where accused denies committing acts which constitute offense charged. 5 ALR4th 1128.

Entrapment defense in sex offense prosecutions. 12 ALR4th 413.

Validity of state statutes and regulations limiting or restricting public funding for abortions sought by indigent women. 20 ALR4th 1166.

Medical malpractice in performance of legal abortion. 69 ALR4th 875.

Recoverability of compensatory damages for mental anguish or emotional distress for tortiously causing another's birth. 74 ALR4th 798.

Sec. 18.16.020. Consent required before minor's abortion. A person may not knowingly perform or induce an abortion upon a minor who is known to the person to be pregnant, unmarried, under 17 years of age, and unemancipated unless, before the abortion, at least one of the following applies:

- (1) one of the minor's parents or the minor's guardian or custodian has consented in writing to the performance or inducement of the abortion;
- (2) a court issues an order under AS 18.16.030 authorizing the minor to consent to the abortion without consent of a parent, guardian, or custodian, and the minor consents to the abortion; or
- (3) a court, by its inaction under AS 18.16.030, constructively has authorized the minor to consent to the abortion without consent of a parent, guardian, or custodian, and the minor consents to the abortion. (§ 4 ch 14 SLA 1997)

Cross references. — For purpose and findings concerning the enactment of this section, see § 1, ch. 14, SLA 1997 in the 1997 Temporary and Special Acts.

Effective dates. — Section 4, ch. 14, SLA 1997, which enacted this section, took effect on July 31, 1997.

Sec. 18.16.030. Judicial bypass for minor seeking an abortion. (a) A woman who is pregnant, unmarried, under 17 years of age, and unemancipated who wishes to have an abortion without the consent of a parent, guardian, or custodian may file a complaint in the superior court requesting the issuance of an order authorizing the minor to consent to the performance or inducement of an abortion without the consent of a parent, guardian, or custodian.

(b) The complaint shall be made under oath and must include all of the following:

- (1) a statement that the complainant is pregnant;
- (2) a statement that the complainant is unmarried, under 17 years of age, and unemancipated;
- (3) a statement that the complainant wishes to have an abortion without the consent of a parent, guardian, or custodian;
- (4) an allegation of either or both of the following:
 - (A) that the complainant is sufficiently mature and well enough informed to decide intelligently whether to have an abortion without the consent of a parent, guardian, or custodian; or
 - (B) that one or both of the minor's parents or the minor's guardian or custodian was engaged in physical abuse, sexual abuse, or a pattern of emotional abuse against the minor, or that the consent of a parent, guardian, or custodian otherwise is not in the minor's best interest;

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