

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10269 HOUSE JUDICIARY

TESTIMONY OF RICA N. SWANSON
RE: HB-124

Committee Members:

I urge the passage of HB-124. There are some very critical needs that are not being met in the Anchorage Pioneer Home that I am personally aware of as a resident of the home in the residential section of the PH for five years until my husband untimely death by being beaten by a care giver and dying the following day. My husband's needs had progressed to the comprehensive level of care over the duration of the five years.

I am a 96-year-old lady and a 93-year resident of the State of Alaska. I was raised in Douglas, Alaska from 1908 until I left for college. I returned to teach school in Tanana and along the Yukon and was the first teacher in Wasilla where I met my husband to be. I was a violinist and was one of the founders of the Anchorage Symphony Orchestra. I was married to the same man for 67 years, the last five spent in the Pioneer Homes, first in Sitka and the last 3-1/2 years in Anchorage. I can attest that he was a fine and gentle man who never caused his caregivers any problems. That during his lifetime he worked to provide care for burn victims and children born with severe orthopedic problems obtain treatment at the Shriner's Hospital. I can attest that many times over the last year he made comments like "Momma, lets get out of here, they hurt me". "Let's go home".

I was witness to the lack of care and responsiveness in the Comprehensive Care Unit that started when the PH went to assisted living and this care continued to diminish until my husband's death by a caregiver a little over a year ago. There is limited activities for anyone in the home but virtually non-existent in the comprehensive care unit, physical therapy became a token gesture, bathing of the residents on this floor was limited, call bells rang incessantly without being answered timely and if I personally did not go up and feed my husband lunch and dinner he would not have been fed. The staffing was low on weekdays, but almost non-existent on weekends. There are many problems with the Anchorage Pioneer Home, but probably none so grievous as the home being allowed to hire individuals that have been convicted of felony crimes.

The individual suspected of beating my husband has a record of abuse and theft. The individual also has multiple complaints by other resident's families. The only punishment this individual received was paid leave while the investigation proceeded into my husbands' death. This is not acceptable either to my family, or myself but additionally, the potential risk to other families loved ones is still present.

After my husband's death at the Anchorage Pioneer Home, I left the Pioneer Home and moved in with my daughter, as I was extremely frightened that I to would become the next victim of abuse. I am fortunate that I have someone who cares about my health and safety and I am fortunate that I still have my health.

I don't feel that it unreasonable to expect to be safe in one's home, nor do I feel it is unreasonable to expect to be safe in a nursing or assisted living home. It appears obvious to me that the bottom line for the administrators has nothing to do with the health and safety of the resident, but that the administrator's concerns are budgetary and one way is to keep staffing low and supervision almost nil.

I have lived through a horrible experience and my poor husband had to die in terror unable to protect himself. For the health, welfare and safety of the residents of nursing and assisted living homes I urge you to pass HB 124.

MONTA FAYE LANE

From: MONTA FAYE LANE <montafaye@gcl.net>
 To: <Representative_John_Coghil@legis.state.ak.us>
 Sent: Monday, April 23, 2001 2:04 AM
 Subject: HB 124/S

Dear John

This letter is about the disappointment we feel about the way that HB124/S moved out of committee, without even a discussion with the Alaska Caregivers Association. When we were in Juneau, two weeks ago we were told by Representative Halcro, that he was calling the bill back to work on it with us, as he was led to believe that our association had approved all in his bill, which was untrue. The group called "CARING" has never been associated with our organization, now nor in the past. This small group of somewhat radical people have never owned, operated, nor been employed by any assisted living home that we know of. We have heard many times in the past of their dislikes of our state run facility, the Pioneer Homes.

We believe that this group has misled a young legislator who does not have the facts. To believe that there are severe crimes happening in assisted living homes we believe that this is not true. However, there has been some abuse I'm sure, some by families, some by caretakers, but overall we don't believe abuse is running rampant in Alaska as some would have you all to believe.

I'm sure we have some sub-standard homes out there, some who can't speak English, which could pose a larger threat to the state if there was ever a tragedy like not being able to give directions in case of a fire or some other happenings.

I truly believe mistakes have been made by some sub-standard homes. However, our licensing division should be aggressive with these homes and close them after repeated warnings to comply. So why should more regulations and statutes be put on an industry that is already over regulated as it is.

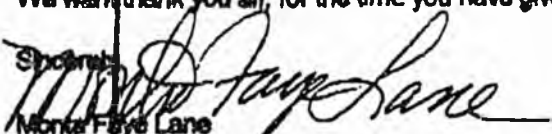
Yes we want a Barrier Crimes bill, especially against elder abuse, murderer's, sex crimes, class A and some B felonies. We would like to see some of the people that have served time, and been rehabilitated for crimes not related to abuse to a vulnerable adult or a child, be arbitrated and given a chance to work again. Some of these are the very people we serve also. What a way to show some of these people the errors of their ways, and what it is like to give of yourself, and as they say, maybe they will be less likely to be on the state's Indigent care list. We think we all need to sit down and discuss barrier crimes, as it stand it is just to broad.

The Alaska Caregivers Association also want you all to know, that we think this group of people (caring) has a personal vendetta against assisted living homes in this state.

We hope you all will consider our feelings and our rights, when making laws aimed at the destruction of this industry.

If more legislation, is put on our industry I hope the state has a lot more money in the budget to cover the expense of it, because for 18 years we received only a \$ 2.00 increase in our re-imburement rate which I might add is still at the poverty level for indigent care. All new laws cost money. There must be a fiscal note, or is it the intention of the sponsors of this bill to just pass it through without any say from our members. I think that is called taxation without representation, or did I go to school in a communist country?

We want thank you all, for the time you have given us to read our message.

Sincerely,

 Monta Faye Lane
 President, Alaska Caregivers Assoc.
 Lealee Orebaugh

4/23/01

TESTIMONY
HB124

We the undersigned as individuals are urging the passage of HB124.

It is imperative that the residents of nursing facilities or assisted living facilities are protected and not put in jeopardy by having a care-giver that has been convicted of a crime against a resident of a nursing home or assisted living home or convicted of a felony. The elderly, frail and vulnerable resident of any nursing or assisted living home needs to be assured that they are offered the best care and protection that can possibly be provided. I urge the passage of HB124.

Respectfully submitted,

Name Darlene L. House Address 11841 Humbel Ct Phone # (907) 344-8651
Anch. AK 99515

Name Arnold P. Rice Address 11841 Humbel Ct Phone # (907) 344-8651
99515

Name Georgia K. Orion Address P.O. Box 873531, Wasilla AK Phone # (907) 373-1762
99687

Name [Signature] Address 10344 STEPHAN DAZE WAY Phone # 907-522-9087
ANCHORAGE AK 99515

Name [Signature] Address 3520 Tanglewood Place Phone # (907) 243-4978
ANCHORAGE AK 99517

Name [Signature] Address PO Box 141415 Phone # (907) 440-2137
ANCH. AK. 99514

Name [Signature] Address 8310 Country Wood Dr. Phone # (907) 344-1049
ANCHORAGE AK 99502

Name [Signature] Address 1730 Escadme Dr Phone # 907-288-9555
Anchorage AK 99507

Name [Signature] Address 12846 Lander Dr. Phone # 907 348 5155
Anch AK 99516

Name Judy Ann O'neil Address 2046 BRANDILIN ST Phone # (907) 345-6242
ANCHORAGE, AK 99516

Name Kim Cash Address 4115 E 112th Phone # (907) 830-1334
Anch. AK 99516

Name Barbara M. [Signature] Address 14633 MATHEW Pk Phone # (907) 345-2084
Anch. AK 99516

Name Jeanne [Signature] Address 3121 Rosalind Dr Phone # (907) 344-6206
anch AK 99507

Name Judith Salmonhead Address 6900 Cheryl Phone # (907) 522-9089
Anchorage AK 99518

TESTIMONY
HB124

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Respectfully submitted,

- Name Trisha Brint Address 41100 E. 145TH Phone # 345 - 2981
- Name Billie J Brown Address 6210 Norm Dr Phone # 561 8312
- Name Rita L. Brown Address 85 Emerald Dr Phone # 248-1720
- Name John Potts Address 2320 Tasha Dr Phone # 243-8667
- Name John Deming Address 8821 Emerald Dr Phone # 248-1720
- Name Paul Schumaker Address 6900 Cheryl Phone # 522-9084
- Name John Jacobson Address 7203 Foxcroft Cir #2 Phone # 770-2759
- Name Michael W. Lee Address 3565 S. 160th Cir Phone # 345-9867
- Name Dawn W. Lee Address 12945 Morak Pl Phone # 345-4894
- Name Richard J. Boyers Address P.O. Box 110737, Anch AK 99511 Phone # 248-4130
- Name Paul Willard Address 2540 Turnagain Hwy Phone # 243-3096
- Name John Sibert Address P.O. Box 4804 Palmer AK 99675 Phone # 743-3337
- Name Al M Address 8310 Country Woods Pl Phone # 344-6046
- Name _____ Address _____ Phone # _____

Post-It® Fax Note	7671	Date	3-15-01	# of pages	1
To	Kevin Hood		From	Al M	
Co./Dept.			Co.		
Phone #			Phone #		
Fax #			Fax #		

FROM : SOLID CONCRETE

PHONE NO. : 1+907+562+4073

Mar. 15 2001 01:23PM P2

MARON 14, 2001

TESTIMONY
HB124

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Respectfully submitted,

- Name: Mary Ann [unclear] Address: 1121 Katarouchie #2 Phone #: 215-2321
- Name: Lisa [unclear] Address: 1121 Katarouchie #1 Phone #: 215 2300 (miss)
- Name: Cheryl Budge Address: PO Box 221204 99422 Phone #: 248-7876
- Name: Tracy P. [unclear] Address: P.O. Box 240 254 41504 Phone #: 552-3325
- Name: Virginia [unclear] Address: 6241 [unclear] Phone #: 337-5555
- Name: Max Charles Address: 2320 E 54th Phone #: 337-7905
- Name: [unclear] Address: 758 E 74th B Phone #: 349-8349
- Name: [unclear] Address: PO Box 170 119 Phone #: 337-3852
- Name: [unclear] Address: PO Box 1714 Phone #: 337-1277
- Name: [unclear] Address: 3705 Arctic #12 Phone #: 717-4767
- Name: [unclear] Address: 701 Indian #12 Phone #: 338-7329
- Name: [unclear] Address: 822 [unclear] #6 Phone #: 248-7876
- Name: [unclear] Address: 3701 [unclear] #412 Phone #: 562-1459
- Name: [unclear] Address: [unclear] 202293 Phone #: 607-8018

Post-it* Fax Note 7671

Date	3-15	# of pages	2
To	Kevin Hard		
From	Culver		
Co./Dept.			
Phone #			
Fax #			

WE THE UNDERSIGNED SUPPORT HB124. WE BELIEVE THAT ALASKA MUST HAVE A LAW THAT PROHIBITS NURSING AND ASSISTED LIVING HOMES FROM EMPLOYING INDIVIDUALS WITH CRIMINAL BACKGROUNDS! WE BELIEVE THAT THIS LEGISLATION FOCUSES ON THE SAFETY AND WELL-BEING OF NURSING AND ASSISTED LIVING HOME RESIDENTS. WE ASK THAT THE LEGISLATURE PASS THIS BILL THIS SESSION!

NAME	ADDRESS	PHONE
Robert Anderson	4008 ROGERS DR Anch	581-5158
Randy Schant	5816 E 9th Ct Anch	333-7286
Rick Bowlin	150 Orange Hall rd Fbks	490-6590
J.F. Baird	1750 Alaska way Fairbanks	475-3499
Carl [unclear]	P.O. Box 78847 Fbks	373-2277
Shannon Sand	3370 Elderberry Ln North Pole AK	488-2649
D.C. Smart	378 Blackhawk, FBKS AK	479-0907
Joe [unclear]	1753 Tenth St N. Delta AK	488-9680
Fred Schultz	P.O. Box 658 Chugiak, AK	99567 (688-90)
Daryl Becker	9779 Lakeotis Ave AK	349-1267
Ramon Land	Fairbanks, AK	429-6121
Paul Johnson	1015 24th Ave FBK'S AK 99701	456-2501
Paul [unclear]	1123 Talbot	786-8437
Nanette Collins	P.O. Box 672498 Chugiak AK	9956
K.G. McDonald	2175 BROADMOOR AVE FBKS AK	99709
Laura Sands	11485 Old Seward 99503	
John Mallecan	11224 Celestial St Eagle River AK	99577
Janis Day	6808 Spruce Rd AK	344-1712
W.H. Carver	6808 Spruce rd AK	99507 349-1712
Richard Skibbs	1791 Alcatraz Tract D 99507	349-9608
Jan [unclear]	P.O. Box 112688 Anch. 99511	345-3194
Jane A. Furman	Box 112688	88-99511

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NAME	ADDRESS	ZipCode	PHONE
Martha A. Woodcock-Peck	761 HIGHVIEW DR		345-1123
Mary Souders	2940 Nugget Ln	99516	345-1056
Shannon Brodie	8140 Cranberry St.	99502	248-0306
Mirna Mirani	P.O. Box 191016	Anchorage Ak.	345-5278
Cindy M Ferlin	9315 Strathmore	Anchorage Ak	99515 677-8906
Virginia Lund	13115 Cape Circle,	Anch	99515 345-3050
Margaret A. Pote	12761 Tanada Lo	Anch, AK	99515 345-5761
David W. Souders	2940 Nugget Ln	99516	345-1056
Linn McDuffie	11620 Brook Hill Ct.	Anch	99516 3454122
Jessica House	1804 Circle Lake Ln	Anch AK	99507 561-1871
Candy M. Proffitt	11923 Rainbow	Anch, AK	99516 345-8326
Theresa Siegel	17435 Pachel Ave	Exide River	99577 696-1885
Ruan D. Dull	1225 Karwinski	Anch	99501 272-2322
Gracie Stutzman	3940 E 9th Ave #4	99508	333-3674
Laudis Kosario	8015 E 4th St.	Anch, AK	99503 (907)332-0104
Edwin G. Bent III	2420 Chinook Ave,	Anch	99516 345-0515
Sharon Cassell	1004 Fred Cir	Anch	99515 345-0344
Amy Hochman	40 W. 10th St.	Anch	99501 272-0709
Loren Gandy	10040 Flat Top Ave.	Anch. AK	99516 345-169
Francis Kidd	3554 Alamosa dr.	Anch, AK	99502 243-1051
Lindsay Ellen	230 Bonnie Jean ct.	Anchorage AK	99515 345-1188
Paula Maggi	4800 Reliance Dr	Anch AK	99507

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NAME	ADDRESS	PHONE
Dede Born Rukle	16245 Chryseum Ln Anchorage	3480023
Margbeth Holleran	7641 Homestead Trail Anchorage	333-3381
Angol Eller	230 Bonnie Jean Ct Anchorage	349-1188
Carol Plancich	2072 Stanford Dr Anch AK	274-6168
Warren Urda	13521 Seachant Cir Anch AK	345-7850
Marcia Jett	12821 Lupine Pl Anch / Ak	345-8627
Holly R. Roth	2050 Minnow way Anch / AK	99515 349-2652
August M. Armstrong	6241 Laurel St. Anch, AK	99507 522-2062
Anna M. McLean	109 E. Howard Anch AK	99501
Mollie Eidem	341 Pamela Place Anch. AK	99504 338-1358
Lisa Carson-Bee	2420 Chinook Ave 99516	345-0515
Joe D. Puzo	234 W. 15 th Ave #214 99501	968-3066
John W. Hannaway	907 Chelgach Way #44 ANCH, AK	99503 562-4003
David Wong	12810 Mission Cir. ANCH, AK	99516
Roy Jones	5601 E. Meadow Dr Wasilla AK	99654
John Brackley	MULE 1/2 FISHHOOK PALMER AK	945-5534 99645
Steve Silvert	1210 N ST. ANCH. AK.	99501 255-764
Cheryl R. Taylor	22604 McDonald Dr. Chugiak, AK	99527
Samuel Wachauer	2870 Jeanum Circle Anch AK	99508
Jamesy Burdop	1830 Ponds Cir Anch AK	99507
Jim Harrington	Box 101338	ANCHORAGE 99510

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NAME	ADDRESS	PHONE
MELISSA CAREDS-BELL	2420 OTTUMOCK 99516	845-0515
Jim GALLAGHER	6904 MINK ST.	261-3237
Rhea Bushaw	2816 telegraph	360-7937
Allen Rusenstrom	2426 Aspen Dr	261-3240
Theresa Page	2207 Bonifacio #66	261-3224
Mike Carle	2711 Monmouth av.	243-1997
Chris Korynta	9722 Vaagan Dr #18	522-5944
DAVID CARLE	13101 KILLEY ST. 99516	345-2692
ROGER BENHAM	7045 O'Malley Rd. 99516	346-4080
ROBERT K. NELSON	205 E. DIMOND BLVD #735 99515	763-1569
Audie Tanco	5420 Larkspur Cir 99502	770-6045
Garen Carle	13101 Killey St 99516	345-2692
David T. Engering	14401 Empire Rd 99516	345-8052
Michael DeLeon	6501 Baby Boarder Anch. AK	522-2324
Toshia EVERS	2307 E. 88th AVE. ANCH. AK 99516	245-1384
Mike Allis	5701 Davis Shire Ave Anch AK 99518	345 8288
Tiffany EVERS	2307 E. 88th AVE Anchorage AK 99516	245 1384
Robert Dinn	7564 Whitehawk Dr, Anchorage, AK 99507	522-9265
Bonnie Dinn	7564 Whitehawk Dr Anchorage AK 99507	522-9265
Tommy Miller	7100 Learderson Ln #12	338-9292
Richard Beasley	3277 Palmer, AK	907-745-1962
John P. Ball	3001 DAWSON, ANCH.	907-562-7911

FROM : SOLID CONCRETE

PHONE NO. : 1+907+562+4073

Mar. 15 2001 01:23PM P3

MARCH 14, 2001

TESTIMONY
HB124

We the undersigned as individuals are urging the passage of HB124.

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Respectfully submitted,

Name Paul G. Cook Address 1121 Latitude #2 Phone # 245-2704

Name Harold E. Williams Address 100 Glenberry Ave Phone # 533-3701

Name Wendy Address 31111 Phone # 314-1245

Name John J. Williams Address 6161 A St Phone # 562-1102

Name Elizabeth Williams Address 10161 A St Phone # 243-5041

Name Robert Smith Address 501 E 6th St Phone # 279-0222

Name Elizabeth Williams Address 3701 E 14th St Phone # 562-1151

Name _____ Address _____ Phone # _____

Name _____ Address _____ Phone # _____

Name _____ Address _____ Phone # _____

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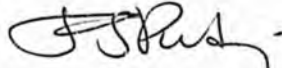
TESTIMONY OF FRANCES S. PURDY ON THE ISSUE OF BARRIER CRIMES – HB 124

Sponsors and Members of the Judiciary Committee:

safe Thank you for holding a hearing on this statutory amendment. I believe it important to keep ~~the~~ *residents*
~~the~~ While addressing the issues of a tight labor market or the possible
difficulties in screening workers' criminal history, let us not lose the focus on the safety of residents
receiving long-term care services. *Having potential staff provide a sworn statement*
is a financially responsible way of ensuring safety to residents

This bill is necessary in order to define barrier crimes in the statutes with the minimum number
and type of criminal convictions. This is not a decision that should be left for the administration to make.
With this bill, nursing homes and assisted living homes will need to hire staff that does not have a history
of conduct that risks endangering our vulnerable seniors and disabled persons. The legislature has passed
similar legislation to protect children in day care facilities. Surely people who must live in long-term care
facilities deserve the same protection from harm in their homes, the nursing homes and assisted living
homes licensed in Alaska.

Thank you for this opportunity to comment on the proposed legislation.



Frances Purdy
1741 Westview Circle
Anchorage, Alaska 99504
(907) 333-0871

Position Statement – CS HB 124

The Office of the Long Term Care Ombudsman (OLTCO) fully supports CS HB 124. This bill would require that all long term care facilities thoroughly screen potential job applicants before employing them to care for frail, elderly Alaskans. In addition to the provisions for name and fingerprint criminal background checks, applicants would be required to provide a sworn statement that offenses did not occur in licensed long-term care facilities. Since most offenses against persons do constitute barrier crimes, the requirement for a simple sworn statement to cover the offenses not considered outright barriers is an adequate measure and an acceptable compromise. Alaska's long term care residents will benefit greatly by the provisions in this committee substitute.

I urge you to pass CS HB 124 as expediently as possible. Since skilled nursing facilities in Alaska are presently not required to conduct any criminal background checks, I believe that it is imperative that CS HB 124 pass this legislative session in order to bring much needed safety measures into the nursing home hiring process.

Thank you for the opportunity to comment on this very important legislation.

Suzan Armstrong-Silva

Suzan Armstrong-Silva
Deputy LTC Ombudsman

4-11-02
Date

State of Alaska
Office of the Long-Term Care Ombudsman
550 West 7th Avenue, Suite 1830
Anchorage, AK 99501

(907)334-4480 Fax (907)334-4486



HB

125

Amendment
Fails

AMENDMENT #1

OFFERED IN THE HOUSE ~~HESS~~ *sed*

BY REPRESENTATIVE COGHILL

TO: HB 125

1 Page 2, line ²⁵⁻²⁶~~24~~, after the words "by a professional journalist":

2 Delete: "employed by a legitimate news-gathering organization for an actual or intended
3 news story"

4
5
6 Insert: who is a member in good standing of the Society of Professional Journalists
7 performing journalistic duties in accordance with the Society of Professional
8 Journalists' principles and standards of practice.

9
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Adopted

Conceptual
Amendment #2

Moved
by Coghill

Delete

Lines 25-27, Page 2

Adopted

22-LS0510VC
Luckhaupt
4/10/01

CS FOR HOUSE BILL NO. 125(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES KOTT, Dyson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to unlawful and indecent viewing and photography and to civil
2 damages and penalties for that viewing and photography."

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

4 * **Section 1.** AS 09.68 is amended by adding a new section to read:

5 **Sec. 09.68.150. Indecent viewing or photography or improper viewing**
6 **civil liability.** A person who engages in improper viewing or photography in violation
7 of AS 11.61.121 or indecent viewing or photography in violation of AS 11.61.123 is,
8 in addition to any criminal penalty provided by law, liable in a civil action to the
9 person viewed or photographed for

10 (1) the person's actual damages;

11 (2) the total of

12 (A) any pecuniary gain realized by the person from engaging in
13 the indecent viewing or photography or improper viewing or photography;

14 (B) a penalty of \$100 for each picture the person engaging in

1 the indecent viewing or photography or improper viewing or photography
 2 reproduced or transmitted to another person; in this paragraph, "picture" has
 3 the meaning given in AS 11.61.123; and

4 (3) a penalty of \$5,000 for each day the person viewed or
 5 photographed was viewed or photographed.

6 * Sec. 2. AS 11.61 is amended by adding a new section to read:

7 **Sec. 11.61.121. Improper viewing or photography.** (a) A person commits
 8 the crime of improper viewing or photography if the person knowingly and
 9 surreptitiously views or produces a picture of or knowingly employs a hidden or
 10 concealed camera, peephole, or two-way mirror to view or produce a picture of
 11 another person in the interior of a residence or domicile without the knowledge or
 12 consent of

13 (1) the parent or guardian of the person viewed, or who is shown in the
 14 picture, if the person who is viewed or shown is under 16 years of age; and

15 (2) the person viewed or shown in the picture if the person viewed or
 16 shown is at least 13 years of age.

17 (b) Each viewing of a person and each production of a picture of a person
 18 constitutes a separate violation of this section.

19 (c) This section does not apply to viewing or photography conducted by a law
 20 enforcement agency for a law enforcement purpose.

21 (d) In a prosecution under this section, it is an affirmative defense that

22 (1) notice of the viewing or photography was posted, or any viewing or
 23 use of pictures produced is done only in the interest of crime prevention or
 24 prosecution; or

25 (2) the viewing or photography was conducted by a professional
 26 journalist employed by a legitimate news-gathering organization for an actual or
 27 intended news story.

28 (e) In this section, "picture" has the meaning given in AS 11.61.123.

29 (f) Improper viewing is a class A misdemeanor.

30 * Sec. 3. AS 11.61.123(a) is amended to read:

31 (a) A person commits the crime of indecent viewing or photography if, in the

1 state, the person knowingly views, or produces a picture of, the private exposure of the
2 genitals, anus, or female breast of another person, or the undergarments of the
3 person covering the genitals, anus, or female breast, and the view or production is
4 without the knowledge or consent of

5 (1) the parent or guardian of the person viewed, or who is shown in the
6 picture, if the person who is viewed or shown is under 16 years of age; and

7 (2) the person viewed or shown in the picture [,] if the person viewed
8 or shown is at least 13 years of age.

9 * Sec. 4. AS 11.61.123(e)(1) is amended to read:

10 (1) "picture" means a film, image, photograph, negative, slide, book,
11 newspaper, or magazine, whether in print, electronic, magnetic, or digital format;

12 [AND]

Alaska State Legislature

House of Representatives

RULES COMMITTEE, CHAIR
COMMITTEE ON COMMITTEES
LABOR & COMMERCE COMMITTEE
MILITARY & VETERANS AFFAIRS
LEGISLATIVE COUNCIL



INTERIM:
10928 EAGLE RIVER RD., SUITE 141
EAGLE RIVER, AK 99577

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801

Sponsor Statement House Bill 125

House Bill 125 amends Alaska Statute 09.68 by adding a section that creates protection for victims of improper viewing and/or photography. This bill also sets the parameters for what is considered to be improper viewing or photography.

House Bill 125 would prohibit the transmission of pictures or video images over the Internet without the consent of the subject or the parents if the subject is a minor.

House Bill 125 will also prohibit any monetary gain to be had by the perpetrators of crimes of this nature as well as imposing stiff monetary fines.

In summary, **HB 125** will ban a practice known simply as "up-skirting or down-blousing". The Internet has made this practice more common with web-sites posting images and buying pictures from high tech peeping toms and telling users where to buy hidden cameras. These web-sites basically promote this practice as well as encourage it. This bill is designed to protect the privacy of all the residents in the State of Alaska



Representative Pete Kott

JUNEAU OFFICE (907) 465-3777 TOLL FREE 1-800-861-KOTT(5688) FAX (907) 465-2819
EAGLE RIVER OFFICE (907) 694-8944 FAX (907) 694-8945 E-MAIL: representative_pete_kott@legis.state.ak.us
<http://www.akrepublicans.org/Kott.htm>



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 21, 2001

SUBJECT: Sectional Summary of HB 125

TO: Representative Pete Kott

FROM: Gerald P. Luckhaupt 
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill creates a new section that provides that a person that engages in conduct prohibited by AS 11.61.121 (added by sec. 2 of the bill) or 11.61.123 is liable to the person viewed or photographed for (1) the actual damages suffered by the person; (2) the total of any pecuniary gain realized by the person doing the viewing or photography and a penalty of \$100 for each picture; and (3) a penalty of \$5,000 for each day the person was viewed or photographed.¹

Section 2 of the bill creates the new crime of improper viewing or photography (AS 11.61.121) which is similar to the existing crime of indecent viewing or photography (AS 11.61.123) but lacks the indecent aspect of the offense. A person violates this new offense by surreptitiously viewing or producing a picture of another person in a room without consent. Violation of this new provision is a class A misdemeanor.²

Section 3 of the bill amends the existing offense of indecent viewing or photography to provide that the offender commits the offense if the offender views or produces a picture of the private exposure of the undergarments of the person viewed without consent. Under current law a person only violates this law if they view or produce a picture of the private exposure of the genitals, anus, or female breast of the other person without consent.

¹ Presumably, a person improperly viewed or photographed already has a cause of action for invasion of privacy (or a civil action for violation of the criminal statute) against the person doing the viewing or photography. The remedies would not include those provided in proposed AS 09.68.150(2) or (3).

² The period of incarceration authorized for a class A misdemeanor may be found at AS 12.55.135. The fines authorized for a class A misdemeanor may be found at AS 12.55.035.

Representative Pete Kott
February 21, 2001
Page 2

Section 4 of the bill adds the word "image" to the definition of "picture" in AS 11.61.123.

GPL:glc
01-182.glc

Enclosure

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 125
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to unlawful and indecent viewing BRU Criminal Division
and photography and to civil damages and penalties for . . ." Component 1st-4th Judicial Districts
 Sponsor Representative Kott
 Requester House Judiciary Committee Component No. 2198-99;2201;61;79

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 125 contains two criminal law provisions. The first creates a new offense and makes it a crime to surreptitiously view or take a picture of a person in a room without their consent, and the consent of the parent or guardian if the person is a child under 16 years of age. The second provision expands an existing offense to make it a crime to view or produce a picture of a person in undergarments without the person's consent and the consent of the child's parent or guardian if the child is under 16 years of age. In addition to the criminal penalties, the bill allows civil damages for the person viewed or photographed.

Passage of this legislation is not anticipated to generate many prosecutions, and should not have a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone 465-5370
 Division Attorney General's Office Date/Time 4/4/01 2:06 PM
 Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 4/4/01
 Agency Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. HB 125

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title Unlawful and indecent viewing of photography BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Kott
 Requester House Judiciary Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The court system does not anticipate any fiscal impact from the passage of HB 125.

Prepared by: Douglas Wooliver *[Signature]* Phone 463-4750
 Division Alaska Court System Date/Time 2/29/01 9:30 a.m.
 Approved by: Stephanie Cole *[Signature]* Date _____
 Agency Alaska Court System

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB125
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to unlawful or indecent BRU: Legal & Advocacy Svc.
viewing and photography....." Component: Public Defender Agency
 Sponsor: Representative Kott
 Requester: (H) Judiciary Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Page 2 for Analysis.

Prepared by: Barbara Brink, Director Phone (907) 334-4414
 Division: Public Defender Agency Date/Time April 5, 2001
 Approved by: Jim Duncan, Commissioner Date 4/5/01
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

Analysis HB 125 (Indecent Viewing)

This bill creates a new crime called Improper Viewing or Photography. The new crime would make it illegal to view or produce a picture of someone in the interior of a room without the consent of the person who is viewed or in the picture. If the person is under 16, the person's parents would also have to consent.

The bill also changes definitions in existing statutes. Changes to the Indecent Viewing or Photography statute would include viewing or photographing "undergarments" covering a person's genitals, anus, or female breast. Current law only covers viewing or photographing the genitals, anus, or female breast itself. The definition of "picture" is changed to include "images" in addition to actual photographs.

This bill would probably add some additional cases to the Public Defender Agency's workload. There may be some difficult First Amendment issues to brief in these cases. However, the Department of Law has stated that passage of this legislation is not anticipated to "generate many prosecutions." Because we cannot determine the exact fiscal impact, we are submitting an indeterminate fiscal note.

HB

126




Alaska Permanent Fund Corporation
P.O. Box 15500 Juneau, Alaska 99802-5500
(907) 465-2047

MEMORANDUM

DATE: February 20, 2001

TO: Representative Norm Rokeberg, Chair
House Judiciary Committee

FROM: Robert D. Storer, 
Executive Director

SUBJECT: House Bill 126 – Removal of members of the Board
of Trustees only for cause

This is to request a hearing at your earliest convenience on House Bill 126, "An Act relating to removal of members of the board of trustees of the Alaska Permanent Fund Corporation; and providing for an effective date."

HB 126 is an important improvement to current Permanent Fund law. The enhanced continuity of Board membership that this legislation provides is identical to that currently enjoyed by the Alaska State Pension Investment Board (ASPIB). Note: I have attached a memorandum prepared by our legal counsel which provides some helpful background on this issue.

The Board is unanimous in its support for this proposal because the members know, first hand, that it takes a great deal of time to gain sufficient knowledge of the Fund's operations and investment policies to be able to make informed decisions. As an investment professional working with public funds in Alaska for the past 18 years, I can attest that the Permanent Fund is a mature fund and that overseeing its complex investment structure is necessarily a demanding task. The institutional memory and experience of longer-serving members is definitely helpful to new members in fulfilling their fiduciary responsibilities.

In short, we believe this bill serves the best interests of the Fund and the people of Alaska.

Here is one example of why continuity is important. The Trustees recently decided not to invest in private equities even though over time we believe this asset class would provide superior returns to those provided by public equities. Because returns from private equities typically underperform in the short term and only generate their expected higher returns over time, investing in this asset class requires patience and an institutional commitment on the part of the Board.

Part of why the Board decided against investing in private equities was because of its collective concern that the next Governor might replace the entire Board at one time, thereby wiping out the Board's history with - and understanding of - this asset class, including memory of the careful deliberative process this Board followed in considering alternative investments. Worse, new, inexperienced Trustees might simply choose to liquidate those investments at a time when returns are low, rather than staying the course for the longer term.

With removal only for cause, the next Governor will appoint two cabinet members to the Board of Trustees shortly after he or she takes office. A third (public) member will then be appointed in July of the first year of the Governor's term. In July of the following year, roughly one and one-half years after taking office, the Governor will appoint a second public member, with his or her appointments at that time constituting a majority of the members of the Board. This more deliberate schedule for filling Board seats would provide important continuity for the APFC that would likely not occur under the present appointment scheme by which a new Governor could summarily replace all Trustees at one time.

I look forward to discussing this issue with you further, and thank you for your consideration.

Attachment

LAW OFFICES OF
SIMPSON, TILLINGHAST, SORENSEN & LONGENBAUGH, P.C.

ONE SEALASKA PLAZA, SUITE 300 • JUNEAU, ALASKA 99801

TELEPHONE: 907-586-1400 • FAX: 907-586-3065

MEMORANDUM

To: Trustees, Alaska Permanent Fund Corporation

From: Ron Lorensen, STS&L

Date: January 11, 2001

Re: "For cause" standard for removal of public officers
Our File No.: 846.14

In response to the Board's request at its December 8, 2000 meeting, I have researched court decisions that articulate standards for the "for cause" removal of both public and private officers and employees. In addition, to determine whether and how the term is defined in the Alaska statutes, I have also attempted to identify all instances in which removal of a public officer or employee is statutorily provided for on a "for cause" basis. The majority of "for cause" removal statutes in Alaska do not provide any standards beyond the "for cause" requirement.

I. Judicial Approach to "Cause/For Cause".

The Alaska statutes dealing with the removal of public officers and employees use three different terms to state the standard for removal--"for cause," "good cause," and "just cause." There is no apparent significance to the choice of the term used, and courts have recognized that the terms are interchangeable.^{1/} The focus of each term is whether "cause" for removal exists.

The following excerpts from two court cases and one law review article reflect that there is no single, widely accepted definition of "cause" in the cases. Nonetheless, they do reflect a common theme:

"Good cause" cannot be just any reason the Board deems sufficient for the discharge of the teacher. ... Not only must there be "good cause" and substantial evidence in support of the charge, but in order for the facts to sustain such a charge they must bear reasonable relationship to the teacher's fitness or capacity to perform his duties in that position. . . . We find the test of good cause with respect to public officers generally to be facts which are related to the office and affect the administration thereof. Lucero v. Mathews, 901 P.2d 1115, 1122 (Wyoming 1995) (citations omitted).

^{1/} See, for example, Lockhart v. Cedar Rapids Community Sch. Dist., 577 N.W. 2d 845 (Iowa 1998), at 846-47 (equating "proper cause" with "just cause" and "for cause").

There is no all-encompassing definition of "just cause." This term does encompass, however, reasons that relate to an employee's performance in his or her job and the impact of that performance on an employer's ability to attain its reasonable goals. "Just cause" also includes reasons based on an employer's legitimate budgetary or personnel requirements, unrelated to employee fault. "Just cause" does not include "reasons which are arbitrary, unfair, or generated out of some petty vendetta." Lockhart v. Cedar Rapids Community Sch. Dist., 577 N.W. 2d 845, 847 (Iowa 1998) (citations omitted)

In years of exposure and study and thought, both to and of the bad as well as the good, some conclusions have inevitably emerged, and one of them is a definition of what "just cause" probably is, for here and now. It seems to be that cause which, to a presumably-reasonable determiner ... appears to be (not necessarily is), fair and reasonable, when all of the applicable facts and circumstances are considered, and are viewed in the light of the ethic of the time and place. That's a mouthful, in words, but it really is only, bottom-line, another expression of the now-common expression, "fair shake." Hill & Westhoff, "No Song Unsung, No Wine Untasted," 47 Drake Law Review 399, 411 (1999).

Here's my own shot at a definition of "cause": Fair minded people will know it when they see it, taking into account the needs of the office and the performance and conduct of the incumbent.

II. "Cause" for Removal in the Alaska Statutes.

Of the terms "for cause," "good cause," and "just cause," "for cause" is used most frequently in the Alaska statutes to express a "cause" standard for removal of a public officer or employee. That term appears in a total of 15 different provisions. The "good cause" standard comes in second with a total of three provisions. "Just cause" appears only once. Twelve of these 19 "cause" provisions state only the simple standard, without either definition or example. Six provisions include multiple examples of "cause," such as AS 31.05.007(d) which provides that the governor may remove a member of the Alaska Oil and Gas Conservation Commission "for cause including but not limited to incompetence, neglect of duty or misconduct in office" or AS 47.30.663(c) which provides for removal of a member of the Alaska Mental Health Board "only for cause, including, but not limited to, poor attendance or lack of contribution to the board's work."^{2/} One provision, AS 08.04.030, provides only a single example of "cause."

^{2/} The most comprehensive listing appears at AS 43.05.414(c), which provides examples of "good cause" for removal of the state's administrative law judges. That provision states:

- (c) In this section, "good cause" includes
- (1) violation of the Alaska code of judicial conduct adopted by the Alaska Supreme Court;
 - (2) conviction of a crime of moral turpitude;

Under that section a member of the Board of Public Accountancy may be removed by the governor "for neglect of duty or other just cause." No statute attempts to set out a comprehensive definition of "cause."

It should be noted that, within the 19 provisions that require "cause" for removal of a public officer or employee, seven condition the standard with the word "only" (i.e., "may be removed only for cause"). The other 12, including AS 37.10.210(d) which establishes a "for cause" standard for removal of members of the Alaska State Pension Investment Board (ASPIB),^{3/} do not use "only" or any similar word of limitation. Because the role and responsibilities of the APFC Board are so similar to those of ASPIB, I did not use the word "only" in the accompanying draft bill amending AS 37.13.070(a) to provide a "for cause" standard for removal of the public members of the APFC Board. Although the use of "only" in some "for cause" provisions appears to make a somewhat stronger statement about the applicable standard for removal, from a legal point of view I believe that omitting that word from the bill does not have any substantive effect. The appropriate standard for removal of a public officer is either "at will" or "for cause"--it can't be both.

I hope the preceding information is helpful.

cc: Robert D. Storer, Executive Director, APFC
Jim Baldwin, Assistant Attorney General, Department of Law

-
- office; (3) unjustified failure to handle the caseload assigned or similar nonfeasance of
office; and (4) failure to meet the requirements of AS 43.05.425 relating to qualification for
confidentiality of taxpayer information. (5) unreasonable failure to comply with the statutes or regulations regarding the

^{3/} As suggested at the December 8 Board meeting, I went back through the legislative history materials on the bill that created ASPIB to see whether there was any discussion of the intended meaning of "for cause" removal of ASPIB members. From the written record, it does not appear that there was.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 126
() Publish Date: _____

Revision Date/Time (Note correction): _____ Dept. Affected: Revenue
Title: Removal of Members of the BRU: Permanent Funr/ Corporation
Permanent Fund Board Component: Permanent Fund Corporation
Sponsor: House Rules
Requester: House Judiciary Component Number: 109

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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 (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

The provisions of HB 126 would not have any financial cost to the APFC operating budget.

Prepared by: Robert D. Storer, Executive Director Phone (907)465-2047
Division: Alaska Permanent Fund Corporation Date/Time 4/23/01 10:00 AM
Approved by: Larry Persily, Deputy Commissioner Date 04/23/2001
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 126
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Office of the Governor
Title: "An Act relating to removal of members of the BRU: Executive Operations
board of trustees of the Alaska Permanent Fund Corporation.." Component: Executive Office
Sponsor: House Rules (LB&A)
Requester: House Judiciary Component Number: 6

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
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 (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

HB 126 has no fiscal impact on the Office of the Governor.

Prepared by: Michael A. Nizich, Administrative Director Phone 465-3876
Division: Administrative Services Date/Time 4/19/01 12:00 AM
Approved by: David Ramseur Date 04/20/2001
Agency: Office of the Governor

For distribution information, call the Governor's Legislative Office

Sec. 37.13.050. Composition and qualifications of board of trustees.

(a) The Board of Trustees of the Alaska Permanent Fund Corporation consists of six members appointed by the governor. Two of the members must be heads of principal departments of state government, one of whom shall be the commissioner of revenue. Four members shall be appointed by the governor from the public and may not hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of either the United States or of this state.

(b) The four public members of the board must have recognized competence and wide experience in finance, investments, or other business management-related fields.

(c) The board shall annually elect a chairman from among its members.

(§ 5 ch 18 SLA 1980; am § 1 ch 81 SLA 1982)

Sec. 37.13.060. Term of office.

The public members of the board shall be appointed for terms of four years, and they may be reappointed. The terms of the public members shall be staggered so that no more than one term of a public member expires each year.

(§ 5 ch 18 SLA 1980; am § 2 ch 81 SLA 1982)

HB

132

Moved by
Rokeberg
Adopted!

CSHB 132 (L&C)
House Judiciary Committee
Amendments to enhance enforcement of current bootlegging laws

*Sec. _____. AS 04.11.499 is amended to read:

Sec. 04.11.499. Prohibition of importation after election. (a) If a majority of the voters vote to prohibit the importation of alcoholic beverages under AS 04.11.491(a)(4) or (5) or (b)(3) or (4), a person, beginning on the first day of the month following certification of the results of the election, may not knowingly send, transport, or bring an alcoholic beverage into the municipality or established village, unless the alcoholic beverage is sacramental wine to be used for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is dispensed only for religious purposes by a person authorized by the church or religious body to dispense the sacramental wine.

(b) In this section,

- (1) "bring" means to carry or convey, or to attempt or solicit to carry or convey;**
- (2) "send" means to cause to be taken or distributed, or to attempt or solicit to cause to be taken or distributed, and includes use of the United States Post Office;**
- (3) "transport" means to ship by any method, and includes delivering or transferring or attempting or soliciting to deliver or transfer an alcoholic beverage to any person or entity to be shipped to, delivered to, or left or held for pick up by, any person or entity.**

*Sec. _____. AS 04.16.125(c) is amended to read:

(c) In this section,

- (1) "common carrier" means a motor vehicle, watercraft, aircraft, or railroad car available for public hire to transport freight or passengers;**
- (2) "transport" has the meaning given in AS 04.11.499.**

Delete Section 4 of the bill and replace it with:

*Sec. 4. AS 04.16.200(e) is amended to read:

(e) A person who sends, transports, or brings alcoholic beverages into a municipality or established village in violation of AS 04.11.499 is, upon conviction,

(1) guilty of a class A misdemeanor if the quantity **of alcoholic beverages** [IMPORTED] is less than 6 [12] liters of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; or

(2) guilty of a class C felony if the quantity **of alcoholic beverages** [IMPORTED] is 6 [12] liters or more of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages.

Moved by
Rokeberg
Adapted

AMENDMENT #2

OFFERED IN THE HOUSE
TO: CSHB 132 (L&C)

BY REPRESENTATIVE ROKEBERG

Page 1, Line 4, after "Board;"

Delete:

**providing for a review of alcohol server education courses by the
Alcoholic Beverage Control Board every two years;**

Page 3

Delete lines 4 through 6

Renumber remaining section accordingly.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sponsor Statement for CSHB 132 (L&C)

The House Judiciary Committee has been requested to introduced this bill to address some problems in the area of bootlegging alcohol, and the issuance of liquor licenses to persons with criminal records outside the state of Alaska. Bootlegging is a prevalent problem in "dry" areas, and is a large contributor to crime in those areas. In addition, by requiring applicants for liquor licenses to give their fingerprints, we can thoroughly investigate the criminal backgrounds of these individuals so that only responsible individuals may obtain a liquor license.

Bootlegging

The Alaska Criminal Justice Assessment Commission has found that in rural and Bush communities, the amount of violent crime is directly proportional to the amount of alcohol consumed by the residents. The majority of villages in four rural regions (those surrounding Bethel, Nome, Kotzebue, and Point Barrow) have responded by prohibiting the sale and importation of alcohol, but the hub communities in these four regions remain either "damp" or "wet." This bill creates a measure designed to restrict the availability of illegally-imported alcohol in the dry areas of Alaska to help reduce violent crime in those areas. Specifically, it reduces the amount of distilled spirits that lead to a presumption that the person possessed the alcoholic beverages for purposes of sale.

Fingerprinting

This portion of the bill has been created in cooperation with, and at the request of, the Alcohol Beverage Control Board (ABC Board). This bill allows the ABC Board, through the Department of Public Safety, to submit fingerprint cards of prospective liquor licensees to the FBI's national criminal history record check. An agency needs specific legislative authorization for the use of the national database for licensing purposes.

Currently, a criminal record check will only produce convictions from Alaska. By chance, the ABC Board has discovered prior to issuing licenses, serious criminal convictions of an applicant that was convicted in another state. It is possible that liquor licenses have been issued to others that have serious criminal records, but due to the present system their convictions could not be brought to the attention of the ABC Board.

Members of our society are increasingly mobile making national background checks more necessary. Many of the licensees are not residents of Alaska and some are multi-national corporations. Prevention of future problems, by requiring a national background check for liquor licensees, is sound public protection policy.

The Committee urges your support of this bill.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sectional Analysis for CSHB 132 (L&C)

- Section 1:** Decreases the amount of distilled spirits that creates a presumption that the person possessed the alcoholic beverages for purposes of sale.
- Section 2:** Decreases the amount of distilled spirits that a package store may send to a purchaser, located in an area that has restricted the sale of alcohol, within a calendar month.
- Section 3:** Requires an applicant for a liquor license to submit his or her fingerprints and fees for criminal justice information and a national criminal history record check.
- Section 4:** Decreases the amounts of distilled spirits that lead to a class A misdemeanor or class C felony for a person who sends, transports, or brings alcoholic beverages into a local option community.
- Section 5:** Requires the ABC Board to review alcohol server education courses every two years.
- Section 6:** Allows the Alcoholic Beverage Control Board to process pending applications without a national criminal history record check.
- Section 7:** This act is to take effect immediately.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. CSHB 132 (L&C)

Revision Date/Time (Note if correction) _____	Dept. Affected _____
Title <u>Possession and distribution of alcohol</u>	BRU <u>Alaska Court System</u>
Sponsor <u>Representative Rokeberg</u>	Component <u>Trial Courts</u>
Requester <u>House Judiciary</u>	Component No. <u>768</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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)

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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 (FY2001) cost: 0.0

POSITIONS

POSITIONS	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
The court system does not anticipate any fiscal impact from the passage of CSHB 132 (L&C).

Prepared by: <u>Douglas Wooliver</u>	Phone <u>463-4750</u>
Division: <u>Alaska Court System</u>	Date/Time <u>2/29/01 9:30 a.m.</u>
Approved by: <u>Stephanie Cofe</u>	Date _____
Agency: <u>Alaska Court System</u>	

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 132(L&C)
 (H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): (Rev.3/22/01) Dept. Affected: Administration
 Title: "An Act relating to the possession of alcohol in a restricted area..." BRU: Legal & Advocacy Service
 Sponsor: House Judiciary Component: Public Defender Agency
 Requester: (H) Labor and Commerce Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	61.6	123.1	123.1	123.1	123.1	123.1
Travel	1.9	3.7	3.7	3.7	3.7	3.7
Contractual	13.6	27.2	27.2	27.2	27.2	27.2
Supplies	1.1	2.2	2.2	2.2	2.2	2.2
Equipment	6.5	0.6	0.6	0.6	0.6	0.6
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	84.7	156.8	156.8	156.8	156.8	156.8

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	84.7	156.8	156.8	156.8	156.8	156.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	84.7	156.8	156.8	156.8	156.8	156.8

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

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

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

PLEASE SEE ATTACHED

Prepared by: Barbara Brink, Director Phone 907 334-4414
 Division: Public Defender Agency Date/Time 03/22/01
 Approved by: Jim Duncan, Commissioner Date 3/22/01
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

ANALYSIS: HB 132 (continued)

This bill is part of an increased effort at enforcement of anti-bootlegging and drug laws in rural Alaska. The Department of Public Safety (DPS) has recently received a \$1.4 million Federal appropriation for these enforcement efforts. DPS will make an interagency transfer of some of these funds to the Department of Law (DOL) to hire additional prosecutors. The prosecutors will be based in Anchorage and in Bethel. A paralegal will be added in Bethel. Legal secretaries will be added in Bethel and Anchorage.

Investigating and prosecuting bootlegging and drug delivery offenses usually involves undercover operations. Obviously, DPS and DOL will not be revealing their plans, but it can be expected that there will be extensive undercover operations. DPS and DOL will also be investigating shipments originating in Anchorage. Shipment by the U.S. Mail will be targeted in cooperation with the U.S. Postal Service.

The Public Defender Agency will need additional funding to respond to these increased enforcement efforts. Most, if not all, of the cases that will result from this effort will be prosecuted under state bootlegging and drug distribution statutes. Without adequate Public Defender Agency staff, cases coming out of this increased interdiction effort may encounter significant delays and difficulties in their process through the courts.

Based on our experience in responding to undercover operations in rural Alaska, we know that we can expect 15-25 new additional felony bootlegging and drug delivery cases to be filed per operation. (An example of an undercover operation of the type we expect to respond to occurred in Kotzebue in 1995. There were about 25 cases filed at the conclusion of the operation. See e.g. State v. Viverious, No. 2KB-95-312 CR (Alaska Sup. Sept. 8, 1995). For purposes of this fiscal note, we will estimate that there will be 20 cases per operation.

These cases will not be filed immediately. For obvious reasons, the standard practice is to complete the whole undercover operation and then file all the court cases at one time. However, we expect that the enforcement efforts in Anchorage will start immediately.

Obviously, we can only guess at the number of undercover operations that will be initiated. But given the amount of Federal funds that are available, the most conservative estimate we can arrive at is that at least seven operations will be completed by the end of FY 2002. This will result in an additional 140 cases being filed. The Public Defender Agency is usually appointed in 90% of rural cases. 90% of the cases is 126 new cases.

As far as the Anchorage enforcement operations are concerned, we estimate that at least 25 new additional felony cases will be filed in FY 2002. We predict we will be appointed in 80% of these cases, resulting in 20 new cases.

Therefore, the total of new additional cases will be about 146. According to national standards, a public defender attorney should be assigned to no more than 150 new felony cases per year. Therefore, we are requesting one additional attorney to be based in Bethel. Because we do not expect the rural Alaska cases to be filed until six months have passed, we are requesting only half of the funding in FY 2002. The funding includes one-time equipment costs and clerical support.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 132(L&C)
(H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title: An Act relating to the possession or distribution BRU: 271
of alcohol in a local option area; requiring liquor license... Component: Community Corrections
Sponsor: House Judiciary Committee
Requester: Labor and Commerce Committee Component Number: 1382

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	96.8	96.8	96.8	96.8	96.8	96.8
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	7.0	7.0	7.0	7.0	7.0	7.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	112.8	106.8	106.8	106.8	106.8	106.8

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	112.8	106.8	106.8	106.8	106.8	106.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	112.8	106.8	106.8	106.8	106.8	106.8

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill will improve interdiction in bootlegging operations in the State. It reduces by half the amount of alcohol that a person may possess in a restricted community for the application of the presumption of intent to sell. It also reduces by half the amount of alcohol a package store is allowed to send in a calendar month to a person in a restricted community, and changes the penalty for the illegal sale or transportation of alcohol to a restricted community by reducing by half the amount of alcohol illegally sent to a community that qualifies for a C felony. Package stores within 50 air miles of a restricted community would also be required to keep records of each sale in excess of the amount of alcohol that may be sent to an individual in a restricted community in a calendar month and make the records available to law enforcement.

The Dept. of Law anticipates these changes along with the increased efforts of State Troopers and the federal authorities will in also increase the number of felony prosecutions for these offenses. They have anticipated the need for an additional prosecutor as well as a paralegal to pick up the increased workload.

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 3/15/01 12:15 PM
Approved by: Margaret Pugh Date 3/15/01
Agency: Dept. of Corrections

For distribution information, call the Governor's Legislative Office

22nd Legislature
FISCAL NOTE HB 132
Page 2

The Dept. of Corrections will certainly feel the effect of these increased efforts. Although we may be able to absorb this amount in our facilities, we do not have the workforce in the field to absorb these additional cases. We are requesting an additional Probation Officer and Criminal Justice Technician to write the Pre-sentence investigations required in felony cases as well as to manage the increased caseload for supervision purposes. The Department of Law anticipates they will need their staff in Anchorage. We will assume the same thing. If it turns out that the workload is in the rural areas, we would transfer the PCN to the appropriate area.

The new staff will need a one-time computer equipment purchase. Additionally, they will need funding for a vehicle, supplies and travel.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 132(L&C)
(H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to the possession or distribution BRU Criminal Division
of alcohol in a local option area; . . ." Component Third Judicial District: Anchorage
Sponsor House Judiciary Committee by Request
Requester House Labor and Commerce Committee Component No. 2261

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1007 Interagency Receipts						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 132 strengthens enforcement laws for importation of alcoholic beverages in municipalities and villages that have elected to restrict the sale, importation, or possession of alcohol in their communities. First, it reduces by half the amount of alcohol that a person may possess in a restricted community for the application of the presumption that the person possesses the alcohol with intent to sell it. The bill also reduces by half the amount of alcohol a package store may send in a calendar month to a person in a restricted community, and changes the penalty for the illegal sale or transportation of alcohol to a restricted community by reducing by half the amount of alcohol illegally sent to the community that qualifies for a C felony. Package stores within 50 air miles of a restricted community would also be required to keep records of each sale in excess of the amount of alcohol that may be sent to an individual in a restricted community in a calendar month. These records would be available to law enforcement officers.

Prepared by: Joan M. Kasson Phone 465-5370
Division: Attorney General's Office Date/Time 3/15/01 2:56 PM
Approved by: Kathryn Daughettee for Bruce M. Botelho, Attorney General Date 3/15/01
Agency: Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. HB 132

ANALYSIS CONTINUATION

Reducing the amount of alcohol sold or transported that qualifies as a C felony will increase felony prosecutions, which are more complicated and time consuming than misdemeanors, often involving jury trials. We have no way to estimate what the increase in workload might be; however, any increase in costs in state FY02 will be covered by part of a recent federal appropriation to Alaska for law enforcement and prosecution relating to alcohol offenses.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 132(L&C)
(H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Liquor License Applicant Check/Training BRU: Alcoholic Beverage Control Board
Component: Alcoholic Beverage Control Board
Sponsor: House Judiciary Committee by request
Requester: House Labor and Commerce Committee Component Number: 100

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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 (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would reduce by half the quantity of alcoholic beverages required to be in a person's possession in a local-option area to create the legal presumption (for criminal prosecution) that the beverages are intended for sale. It also would reduce by half the quantity of alcoholic beverages that could be shipped each month to a purchaser in an area that imposes restrictions on alcohol sales. Section 3 would require more extensive ID checks and record keeping by package liquor stores near a local-option community that has restricted sales of alcoholic beverages. Section 8 would require the state Alcoholic Beverage Control Board to review an approved alcohol server education course every two years instead of three years in existing statute. None of these provisions are expected to have a fiscal effect on the state Alcoholic Beverage Control Board.

Section 4 would require liquor license applicants (including license transfer applicants) to submit to the ABC Board a set of fingerprints of the applicant(s) and the fees required by the state Department of Public Safety for a national criminal history record check of the applicant's fingerprints. Because license applicants would pay the fee for the record check, this legislation is not expected to have a fiscal impact on the ABC Board.

Prepared by: Doug Griffin, Director Phone 269-0351
Division: Alcoholic Beverage Control Board Date/Time March 9, 2001, 3 p.m.
Approved by: Larry Persily, Deputy Commissioner Date 03/10/2001
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

JUSTIFICATION FOR NATIONAL CRIMINAL JUSTICE BACKGROUND

CHECKS FOR LIQUOR LICENSING

- 1) Alcoholic beverages are a legal substance subject to substantial regulation, control, and oversight due to the potential of this product to create public safety and welfare problems in society. The country has chosen strict regulation over prohibition.
- 2) One means of regulating the distribution of beverage alcohol is strictly licensing the number of retail outlets and the persons involved in business of alcohol sales. Eighteen states are actually engaged in some aspect of retail alcohol sales (usually the sale of spirits), but Alaska, like most states, is a license state and licenses the private sector and non-profit clubs to conduct all alcohol sales.
- 3) As the regulator of private liquor sales, the public rightfully expects the State of Alaska, through its Alcoholic Beverage Control (ABC) Board and Department of Public Safety, to thoroughly investigate "applicants for new licenses and applicants for the transfer of existing licenses before the applications are considered by the board" (AS 04.11.300).
- 4) The debate on the proper balance between privacy for the individual vs. protection of the public prompted the ABC Board to adopt a regulation in 1981 requiring prospective licensees to authorize release of conviction and arrest records. Later changes to federal and state law limited the board's access to only information related of actual criminal convictions and not to unadjudicated arrests.
- 5) In the late 80's, the U.S. Department of Justice banned the use of the national Criminal records Information Center (NCIC) database for licensing purposes and would only allow the FBI fingerprint checks of license applicants **if required by legislative acts of individual states**. The purpose of the bill is to grant this specific authorization and allow access, through the Department of Public Safety, to the FBI's national criminal data bank.
- 6) In 1994, the Alaska Legislature passed AS 12.62.160. Section (c)(3) of that statute prohibits the release of criminal justice information "until the person requesting the information establishes the identity of the subject of the information by fingerprint comparison or another reliable means of identification approved by the department." Upon enactment of this provision the ABC Board has required submission of fingerprint cards by prospective licensees under the Board's general application powers found in AS 04.11.260(5) and AS 04.11.270(1).
- 7) **The criminal record check will only produce convictions in Alaska.** By chance, the ABC Board has discovered prior to issuing licenses, serious criminal convictions (assault, illegal possession of firearms, kidnapping for ransom, and sale of alcohol without a license) of an applicant that was convicted in another state. It is possible that liquor licenses have been issued to others that have serious criminal records, but due to the present system their convictions could not be brought to the attention of the ABC Board.

- 8) Members of our society are increasingly mobile making national background checks more necessary. Many of our licensees are not even residents of the State of Alaska and some are multi-national corporations. Prevention of future problems by conducting more systematic and thorough criminal background checks is sound public protection policy. The potential substantial benefit of not inadvertently licensing a convicted felon in the first place versus the nominal cost (zero fiscal note to the State/approximately \$25 per fingerprint card and ten additional days to process license for the licensee) of the procedure makes this a sound proposition.
- 9) This measure is supported by the Department of Public Safety and was part of its criminal records bill CSHB 292(JUD) last year.

For More info Contact: Doug Griffin, Director
Alcoholic Beverage Control Board
907-269-09351 FAX: 907-272-9412
Email: Doug_Griffin@revenue.state.ak.us

1-16-01

From:
CHARR
MAR 12 2001

ABC REQUIRED POINTS

The following points are to be fully covered in all TAM classes:

1. Function of Alcoholic Beverage Control Board, licensing procedures, and types of Licenses;
2. Server responsibilities to the employer, patron and law;
3. Criminal and civil liability, including discussion of criminal negligence standard;
4. Effects of alcohol consumption, including:
 - A. effect of food on alcohol consumption
 - B. blood alcohol levels
 - C. identifying a drunken person; and
 - D. fetal alcohol syndrome and fetal alcohol effect
5. Drunken persons and intervention
6. Underage persons:
 - A. checking identification
 - B. identifying valid identification; and
 - C. obtaining statement of proof of age
7. State and local hours of service and cutting off service
8. Happy hour laws
9. Restaurant designation
10. Other permits
11. Local option provisions
12. Warning signs
13. Gambling, drugs, and prostitution
14. Adulteration
15. Penalties for licensees and their agents and employees
16. Sale by package stores in response to written orders

From:
CHARR

MAR 12 2001

Techniques of Alcohol Management Goals and Objectives

CHARR recognizes the concerns we face today in the Licensed Beverage Industry and is proud to administer the Techniques of Alcohol Management (TAM) program. This comprehensive class teaches responsible hospitality to servers and sellers of beverage alcohol in the State of Alaska. CHARR was the first to bring a program of this type to Alaska, before it became a state mandate. We currently have 23 instructors throughout the state, providing this valuable education in the rural areas of Alaska as well as our larger cities.

The National Licensed Beverage Association in cooperation with law enforcement, highway safety, substance abuse professionals and liquor control commission, developed the new TAM program and it is administered in Alaska through CHARR. The class is taught in five segments. The clinical effects of alcohol, SIR (size, interview, rate) & MAMM (move, assert, attitude, move on), False identification, customer disturbances and laws, rules and regulations.

Our main objectives through TAM are to reduce the number of alcohol related accidents on the highway through education and stop underage drinking. Our program places a great deal of emphasis on the moral, ethical and legal obligation we have in our industry towards this end.

Through our program participants learn how alcohol is absorbed into the blood stream, how to estimate BAC, the effects of alcohol on the brain, how and when to dis-continue service and effectively prevent and handle customer disturbances. Our segment on SIR and MAAM teaches participants how to effectively rate customers and make responsible decisions about serving or refusing service.

We have a segment dedicated to false identification, and the problem of underage drinking. Participants learn what to look for in an I.D. and how to handle a situation when presented with a false I.D. card.

The last segment of our program is dedicated to State laws and regulations. Attached you will find the 16 points that we cover in the TAM program, as required by the ABC board, whom we work closely with to maintain the legal integrity of our program.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

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IS ANYBODY STILL DAY TRADING?
It wasn't that long ago that it seemed as if everybody's brother-in-law was making a killing in the couldn't-miss world of day trading. Then, last March, the stock market flamed out.
 See the Money section on Tuesday.

YOUR MONEY

SECTION ANCHORAGE DAILY NEWS • www.adn.com MONDAY, FEBRUARY 26



LYNNE CURRY
MANAGEMENT

Office allies can guard your back

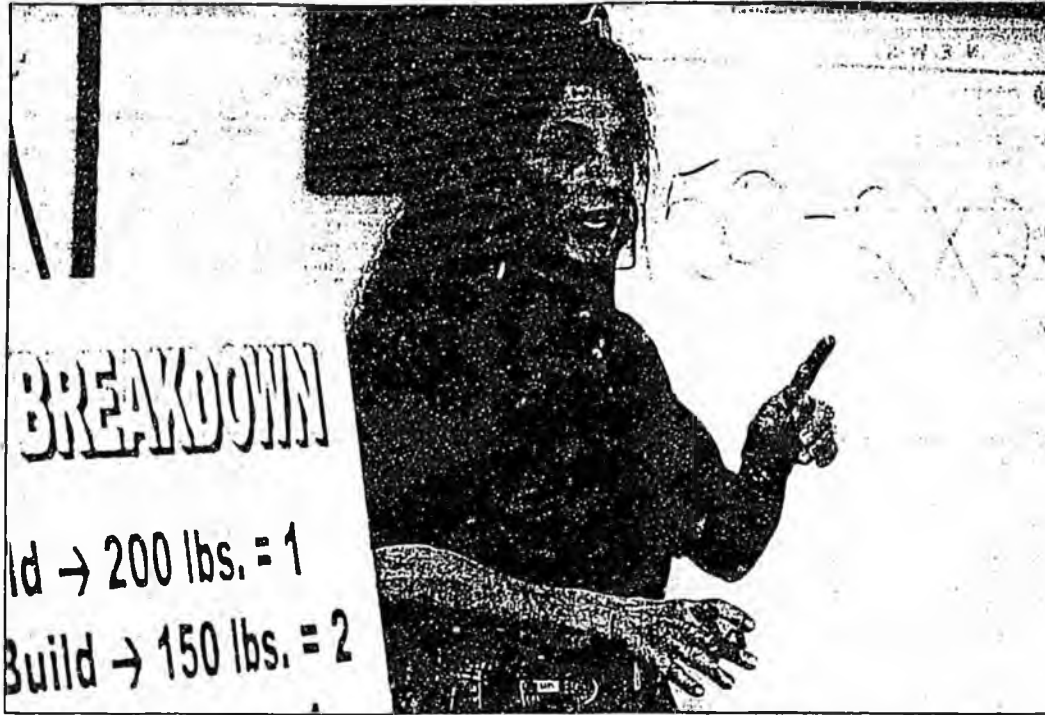
I moved to Anchorage six months ago to take a job as social assistant to the senior manager of a growing company. I was red to work with and for my manager, handling special projects at his quest. I report directly to him, and he's the only one who really knows a quality of my work, as all of my facts feed directly into his decisions and into reports to higher corporate officials in another state. I have always felt loyal to my employer, and this apparently has led to some misperceptions. I've been falsely accused of "earning my salary glibly" by sleeping with my boss. Although it would not be anyone's business if I were, I sent these accusations. I'm happily married. I believe they stem from the fact that I spend a lot of time with my manager. We have an obviously good relationship, and other people in the company treat him less warmly. The other professionals at my level seem solely inspired by self-interest and a desire to launch their individual careers. Also, the only other highly placed woman is my manager's secretary, an order and unattractive biddy who acts like I'm a viper. How can I fight these misperceptions?

First, you need one or more allies when you work with a group of people that includes people who have negative perceptions about you. Because few individuals use problematic views directly to the person about whom they hold them, you need others who can run interference for you when they hear statements made behind your back. For this reason, I'm sorry to consider your boss's ser-

See Page E-4, CURRY

Robin North-Seyer conducts a class for bartenders called Techniques of Alcohol Management. The course discusses how bartenders can recognize when a customer has had too much to drink.

MARC LESTER / Anchorage Daily News



WARNING SIGNS

Bar basics

As saloon culture changes, so does class



By SARANA SCHELL
Anchorage Daily News

The anything-goes atmosphere of pipeline-era saloons has passed into legend, and today's bartenders are expected to prevent brawls rather than break them up. "Changing laws and changing attitudes" are responsible for a shift in barroom culture, said Kace McDowell, executive director for Alaska Cabaret Hotel Restaurant and Retailers Association. Three years after the trans-Alaska pipeline was built, the state enacted a law that makes businesses that serve alcohol responsible for their customers until they are home. That 1980 law was a "wake-up call" for the industry, McDowell said. Four years later, CHARR, a trade group for bars and restaurants, began offering classes for its members in Techniques of Alcohol Management. The state mandated certified training a few years later, McDowell said. CHARR said around 5,000 Alaska servers, bar owners and liquor store clerks take the three-hour class each year.

The class, called TAM, has just been revamped to reflect changing requirements and expectations. It still covers how to check identification and current laws and penalties. Now, though, it emphasizes a server's "legal, moral and ethical" responsibility to help customers stay out of trouble, said TAM instructor Robyn North-Seyer. Students were shown how to estimate a patron's blood-alcohol level, and talked about signs of intoxication, like lighting the wrong end of a cigarette. They were reminded that it is illegal to serve an intoxicated person, even if the person is not driving. "I don't care if they're walking, crawling or slithering," North-Seyer said. The new class stresses a more conservative approach in general. An old video used up until last week showed a bartender leaping over the bar to break up an altercation. "Don't do that," North-Seyer told her class Thursday. The current video, narrated by a talking bottle of Jim Beam, has less on how to deal with violence, she said, and more on how

See Page E-4, CLASS

Arcane tax rules can flummox the brightest and the brilliant

HELP: Fortunately, there's plenty of aid available as tax season nears

SUSAN G. STROTHER CLARK
Orlando Sentinel
Dan Rini knows squat about tax

Rini, owner of Rini Technologies Inc., an Orlando, Fla., company that makes a cooling system for a military laser. But deadlines can make an expert out of anybody. Now is the time of year when business owners are trudging to their file cabinets pulling together the records neces-



million forms were downloaded last year, said Gloria Sutton, a spokeswoman for the IRS in Jacksonville, Fla.

The site is organized by type of business — corporation, sole proprietor or partnership — as well as for specific industries. Are you a restaurant owner? Type that in, and you'll learn how customers' tips should be treated and whether it makes more sense to use the cash or accrual method of accounting.

Anyone using the Web site should keep in mind that it is the "official party line,"

• **Expense deductions:** The mileage reimbursement rate for 2000 is 32.5 cents a mile. There's an increase too, to \$20,000, in the so-called Section 179 deduction, which allows certain business equipment to be expensed in a single year.

• **Car depreciation:** Cars used for business can be depreciated over five years if the purchase price does not exceed \$14,460 — above that which the IRS considers a "luxury" car. More expensive cars can still be depreciated but over a longer period. A car costing \$25,000 would take more than 10 years to depreciate.

... include the value of dental work in his taxes, just as the dentist should for the plumbing.

As for Rini, he expects he will learn more about taxes and finance as he gains more business experience. In the meantime, he's buying the knowledge he doesn't already have. Like about half of all taxpayers, Rini will have someone else complete his taxes. He hired an office manager who is working with an accountant to complete the task.

"I knew I didn't know what I was doing," Rini said. "I solved that by hiring someone who did."

CLASS: Bar owners, servers pick up some tips

Continued from E-1

to prevent it.

North-Seyer, a 30-year veteran of the hospitality industry, spiced up required information with her own practical advice.

"In the pipeline days, people would come in and say, 'I want to six-pack the bar — twice,'" recounted North-Seyer. Back then it was legal to line up 12 drinks in front of a patron, she said, whereas today the limit is two.

What to do if a patron has two drinks in front of them and someone buys the bar a round?

"I like to offer (plastic) chips," North-Seyer recommended. "Some people use upside-down shot glasses, but if someone has had enough, you can tell them to put the chips in their pocket and come back tomorrow."

Watch out for what is written on those chips, she warned.

"Good for one free drink" is illegal, she said. The "happy hour" era, when bars and restaurants would offer cheap or free drinks, was accompanied by many accidents, North-Seyer said, and resulted in the no-free-drinks rule. Chips should simply say, "good for one drink."

Kathy Farmer, owner of Wolverine Lodge in Lake Louise, took the class Thursday with about 30 others. She said she appreciates CHARR's efforts to raise awareness of the issues servers face.

"We're trying to be responsible as an industry," Farmer said.

Although she has been in the business nine years, she said she still learned new things in Thursday's class.

"It was an excellent class. It keeps you sharp."

■ Reporter Sarana Schell can be reached at sschell@adn.com.

Relate accomplishments to career goals

Q What is a good response to the interview question, "What do you think your greatest accomplishment has been?" Do you answer professionally or personally? — e-mail from Tennessee

A It all depends on what your greatest accomplishment was. I have a friend who won an Olympic gold medal a few years back — a rather lofty accomplishment for anyone. But it certainly is not a professional accomplishment if she is trying to land a job as a pharmaceutical saleswoman. So would citing such an accomplishment work?

I believe it would because it rings of self-determination, discipline, goal-setting, working under extreme pressure and competition, plus the obvious athletic and physical talent.

In answering such a question, I would first identify what you believe has been your greatest accomplishment, professionally or personally. Then match that accomplishment to your career goal. See what it took for your accomplishment

MARVIN WALBERG

WORKPLACE



used skills, talents, abilities and attitudes that would be helpful in your career. If so, that's your answer.

Q How do you recover from stupid interviewers who stick to questions they have written down and are so open-ended you have no idea what they want? For example, a panel of three people asking questions like:

- "What is it like to work in a group?"
- "Tell us about a time when you successfully analyzed a situation and found a solution."
- "Read these graphs and give us your impressions."

It was awful. No one even smiled. If I never hear from these people again, it will be too soon. — e-mail from E.H.

A I hate to be the one to tell you, but these are not stupid interviewers or stupid interview questions. They are very carefully chosen to discover just how well you would fit into their organization. The questions are designed to investigate your ability to work with a team, solve problems and assimilate data.

This is an interview style for the "now" workplace, and no matter who you are or what you're searching for, you would do well to prepare answers for these kinds of questions.

Of course, at least one of them could have smiled, at least at the beginning of the interview.

■ Marvin Walberg is a Birmingham, Ala., job search consultant and the author of "About Getting Hired: the Job Search." Send questions to P.O. Box 130757, Birmingham, AL 35213, or e-mail mwalberg@bellsouth.net.

Tech workers warming to idea of being their own boss

SURVIVAL: Marketing yourself is the key to making it your own, analysts advise.

her own e-business consulting company, figuring it was as fine a time as any. But despite having a good amount of savings and the requisite "12 safety nets," there was considerable trepidation.

Jonathan Tessler, 39, agrees with Sulgit's theory of interconnected specialists. Tessler, who lives in Manhattan and is forming a small "high-end design boutique" not involved in the tech...

Before the 22nd Alaska Legislature—First Session

HB 132—Section 4 and 9 Now CS HB 132(L+C) sec. 3+6
Explanation and Justification for Statute Change

Public Law 92-544 allows the Federal Bureau of Investigation (FBI) to exchange identification records with officials of state and local governments for purposes of licensing and employment **if authorized by a State Statute that has been approved by the Attorney General of the United States.**

The Alaska Alcoholic Beverage Control (ABC) Board is directed by State law (AS 04.11.300) to have state troopers assist it "in the investigation of applicants for new licenses and applicants for the transfer of existing licenses before the applications are considered by the board." This investigation involves a criminal background check to insure that those granted the legal privilege to dispense alcoholic beverages will do so in the public interest. The background check gives the ABC Board vital information regarding the applicants past record in following the law in general and, in particular, the applicant's criminal history involving substance abuse, violence, and moral turpitude. Fingerprint cards are submitted to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62. **This criminal background check only encompasses Alaska.**

Section 4 of HB 132 provides the necessary authorization to access FBI data to conduct a nationwide review of criminal history. The cost of this additional review would increase the cost borne by the applicant by about \$20 per fingerprint card and add approximately 10 working days to the background review process. However, the ABC Board believes strongly that additional protection provided to the public and the savings to the state of preventing the issuance of liquor licenses to persons with objectionable criminal records merit adoption of this provision. Section 9 of the bill insures a smooth transition of the new provision by applying the more thorough background check to "new" license applications and not to those pending with the ABC Board when the bill takes effect.

Prepared by: Doug Griffin, Director
ABC Board
907-269-0351 Fax: 272-9412

February 22, 2001

[Fwd: [Fwd: Alcohol]]

Subject: [Fwd: [Fwd: Alcohol]]

Date: Wed, 21 Mar 2001 09:11:14 -0900

From: Janet Seitz <Janet_Seitz@legis.state.ak.us>

Organization: Representative Norman Rokeberg, Alaska State House

To: Heather_Nobrega@legis.state.ak.us

Subject: [Fwd: Alcohol]

Date: Wed, 21 Mar 2001 08:13:38 -0900

From: royce_weller <royce_weller@dps.state.ak.us>

Organization: Department of Public Safety

To: Janet S Seitz <Janet_Seitz@legis.state.ak.us>

Janet:

Below is an e-mail I received from Lt. Dunnagan responding to a request, made by the Chairman, regarding HB132. I hope this answers your boss's question.

Royce (#2649)

Subject: Alcohol

Date: Tue, 20 Mar 2001 16:40:27 -0900

From: Steve Dunnagan <alvia_dunnagan@dps.state.ak.us>

Organization: Department of Public Safety

To: royce_weller <royce_weller@dps.state.ak.us>

Royce,

In 1999 there were 516 gallons of illegal alcohol seized.
In 2000 there were 585.7 gallons of illegal alcohol seized.

With 5 Troopers dedicated to the problem I would think that a 25 to 30% increase would be possible.

I'll have more information in the morning. Kathy will be giving me some computer runs.

--

Lieutenant Steve Dunnagan
5700 E. Tudor Road
Anchorage, Alaska 99507
(907) 269-4532

Janet Seitz <Janet_Seitz@legis.state.ak.us>

House Bill 132

Examples of Common Methods of Transporting Alcohol to Local Option Areas

	Large amount	Small Amount
Mail alcohol through the post office, and it is delivered to local option area	Class C felony	Class A misdemeanor
Mail alcohol through the post office, but it is intercepted	Class A Misdemeanor	Class B Misdemeanor
Pay a friend to deliver alcohol to local option area	Class C felony	Class A misdemeanor
Pay a friend to deliver alcohol, but he is stopped	Class A Misdemeanor	Class B Misdemeanor
Put alcohol on Alaska Airlines as checked baggage, and you go to local option area	Class C felony	Class A misdemeanor
Put alcohol on Alaska Airlines, but you are stopped before arriving in local option area	Class A Misdemeanor	Class B Misdemeanor
Bring alcohol to local option area by snowmachine	Class C felony	Class A misdemeanor
Bring alcohol by snowmachine, but stopped just outside village boundary	Class A Misdemeanor	Class B Misdemeanor

STATE OF ALASKA

ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110608
JUNEAU, AK 99811-0608

PHONE: (907) 465-8920
FAX: (907) 465-4410
TOLL FREE: 1-888-464-8920

March 22, 2001

The Honorable Lisa Murkowski, Chair;
Members of House Labor and Commerce
Alaska State Capitol
Juneau, Alaska 99801

Dear Ms. Murkowski:

The Advisory Board on Alcoholism and Drug Abuse encourages your support of HB 132 Liquor License Applicant Check/Training. This legislation would strengthen support for local option communities by reducing the amount of alcohol allowed for personal possession, and the amount allowed for shipment to areas with restrictions on the sale of alcohol, by half the current amount.

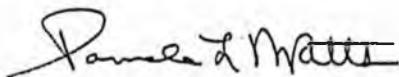
Communities would have increased control over alcohol brought into their communities by requiring purchaser identification by a special identification card, recording of purchases, with records available for inspection by peace officers.

Liquor license applicants would be required to submit fingerprints for the purpose of conducting a criminal history background check, and relates to the use of criminal justice information by the Alcohol Beverage Control Board in approving license applicants. It would also allow the Board to check FBI files in addition to state records. The bill provides for a review of alcohol server education courses by the ABC board every two years.

The Advisory Board on Alcoholism and Drug abuse believes the measures contained in this legislation will assist local option communities in regulating and monitoring the importation of alcohol thereby helping to reduce the negative consequences brought on by alcohol.

Your support for passage of this bill is appreciated.

Respectfully,



Pamela L. Watts
Executive Director



Alaska State Legislature

Please enter into the record my testimony to the

H. J. J. P. Guy
Subcommittee on

committee name

Assoc. "

Committee on

Therapeutic Out Bill (HB 172), dated
bill # / subject *+(HB132)*
on Brattley

3/23/01

The rural areas need resources for prevention and intervention. The children in these areas are grossly being affected.

Signed:

Patrick Guy

Testifier

Concerned Citizen/Voter

Representing (optional)

Kenai, AK

Address

Phone number

***Final Report
of the
Alaska Criminal Justice
Assessment Commission***

May 2000

**Staff: Teri Carns, Staff Director
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The National Institute of Corrections established the Criminal Justice System Project in 1997 to assist policy makers in developing more cost-effective and cooperative systems of criminal justice sanctions. We thank the NIC for its support for Alaska's Criminal Justice Assessment Commission. Phyllis Modley (Program Manager, National Institute of Corrections), Phil Merkle (Assistant to the Director, Office of Justice Programs, U.S. Department of Justice), Becki Ney (Center for Effective Public Policy), and David Price and Brenda Wagenknecht-Ivey (Policy Studies, Inc.) all contributed substantially to the success of the project. Chase Riveland who acted as the liaison between NIC and CJAC provided a critical link and essential support for CJAC members and staff.

Many members of the community and state and local agencies served on CJAC's committees. They are listed individually in an appendix to this report. These committee members worked many hours to discuss improvements to the criminal justice process, suggest innovative solutions and actively implement policies that are enabling the system to respond to a variety of problems. The committees were responsible for creating the recommendations approved by CJAC and for providing much of the documentation of criminal justice problems described in this report.

Several staff members merit special thanks. Teri Carns (Alaska Judicial Council) served as staff director for CJAC. Margot Knuth (Departments of Law and Corrections), Chrystal Smith (Department of Law), Stephanie Lawley (Judicial Council), Averil Lerman (Office of Public Advocacy) and contract attorneys Lisa Fitzpatrick and Suzanne Weller contributed much time and ability to assist CJAC and the committees in their work.

Finally, the Commission acknowledges the crucial role played by Arthur H. Snowden, II, who generously devoted substantial time and effort over the past three years. Mr. Snowden's 1997 retirement as Administrative Director of the Courts was followed almost immediately by his agreement to co-chair the Commission on a volunteer basis. Without his ideas and skills, the Commission would not have accomplished the significant work represented in this final report.

We thank each of these people and all of the others throughout the state who have contributed to the successful completion of the Commission's work.

CJAC Commission Members

Bruce Botelho, Co-Chair
Attorney General

Arthur Snowden, Co-Chair
Retired Administrative Director of the Alaska Court System

Judge Elaine Andrews, Presiding Judge Third Judicial District

Representative Ethan Berkowitz, State Representative

Barbara Brink, Public Defender

Natalie Brooks, Chairperson Hiland Mountain Advisory Group

Stephanie Cole, Administrative Director Alaska Court System

Cindy Cooper, Deputy Attorney General

William T. Cotton, Executive Director Alaska Judicial Council

Harry Davis, Fairbanks District Attorney

Justice Dana Fabe, Alaska Supreme Court Justice

Judge Michael Jeffery, Presiding Judge Second Judicial District

Jeff Jessee, Executive Director Alaska Mental Health Trust Authority

Larry Jones, Executive Director Parole Board

Janice Lienhart, Victims for Justice

Senator Georgiana Lincoln, State Senator

Blair McCune, Deputy Public Defender

Brant McGee, Director Office of Public Advocacy

Representative Eldon Mulder, State Representative

Vicki Otte, Association of Regional Corporations Presidents & CEOs for Cook Inlet Region Incorporated

Commissioner Ron Otte, Department of Public Safety

Judge Charles Pengilly, Fairbanks Superior Court Judge

Commissioner Karen Perdue, Department of Health & Social Services

Frank Prewitt, Cornell Corrections

Commissioner Margaret Pugh, Department of Corrections

Judge Stephanie Rhoades, Anchorage District Court Judge

John Richard, Anchorage Municipal Prosecutor

Dr. David Sperbeck, Department of Corrections Mental Health Supervisor

Judge David Stewart, Court of Appeals Judge

Senator Jerry Ward, State Senator

Judge Michael Wolverton, Anchorage Superior Court Judge

Lynda Zaugg, Director Division of Community Corrections

CJAC Steering Committee Members: Bruce Botelho, Art Snowden, Stephanie Cole, Cindy Cooper, Justice Dana Fabe, Larry Jones, Brant McGee, Commissioner Ron Otte, Commissioner Karen Perdue, Commissioner Margaret Pugh, Judge Stephanie Rhoades, John Richard and Lynda Zaugg

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Executive Summary

The Alaska Criminal Justice Assessment Commission (CJAC) was created in 1997 when the National Institute of Corrections selected the State of Alaska to participate in the federally-funded Criminal Justice System Project. The Governor's Criminal Justice Cabinet¹ sought participation in the project to study the problem of prison overcrowding. Its goal was to bring together representatives from across the criminal justice system spectrum and members of the public to participate in the review and to collectively develop recommendations to alleviate the problem. Once Alaska was accepted into the project, Governor Tony Knowles, Chief Justice Warren Matthews, Senate President Mike Miller, and House Speaker Gail Phillips appointed the members of the Criminal Justice Assessment Commission. All three branches of government were represented on the Commission along with a number of other groups and individuals with interests in criminal justice issues.

The Commission began meeting in July of 1997. Participants included representatives from: Alaska's Supreme, Superior and District Courts; the Alaska Court System administration; the Criminal Justice Cabinet; the Public Defender Agency; the Office of Public Advocacy; the Alaska State Legislature; the Alaska Judicial Council; Victims for Justice; the Alaska Native Justice Center; and the substance abuse treatment community. The Commission used a consensus model to carry out its work and develop recommendations.

The Commission created five committees to carry out its work:

- Alcohol Policy Committee;
- Decriminalizing the Mentally Ill Committee;
- Pretrial Practices and Procedures Committee;
- Probation and Parole Committee; and
- Sentencing Committee.

Committee membership included representatives of state and local agencies, treatment providers, and other interested organizations and individuals. Each committee held regular meetings to study issues and generate recommendations and proposals to present to the Commission. The recommendations adopted by the Commission are summarized below.

¹ In 1995, Governor Knowles directed that a group of his cabinet members meet on a regular basis for the purpose of coordinating efforts in the area of criminal justice planning. This group, consisting of the Attorney General and the Commissioners of the Departments of Public Safety, Corrections, and Health and Social Services, is referred to as the Criminal Justice Cabinet.

Summary of Commission's Recommendations

The Commission addressed a broad spectrum of criminal justice issues and adopted recommendations emphasizing the following areas:

- Increase funds available to state and local governments for substance abuse programs through increased taxes on alcohol sales;
- Develop measures to reduce substance abuse related crime;
- Explore all available means to reduce the disproportionate numbers of Alaska Natives and other minorities throughout the justice system;
- Take steps to address the well over one-third of the state's prison population that suffers from mental disabilities;
- Encourage the provision of adequate treatment beds, out-patient programs and follow-up care for offenders with substance abuse, mental health, sex offender and other treatment needs;
- Develop new programs and expand the use of existing programs that divert various types of offenders from the justice system through use of alternative sanctions such as community work service and restitution, and through use of treatment alternatives;
- Make needed statutory and policy changes to streamline criminal justice processes such as through statewide standardization of various procedures;
- Find better ways to assure that misdemeanor offenders comply with court orders and conditions to better protect the public and to aid rehabilitation;
- Find ways to more effectively serve communities statewide, emphasizing the need for cooperation with local governments and other organizations, especially in rural and Bush areas;
- Improve interagency communication and policy-making procedures;
- Encourage agencies and local governments to incorporate principles of restorative justice - holding offenders accountable to the victim and community - into programs and policies throughout the criminal justice system to the extent appropriate and feasible.

I. Introduction

A. The Need for Criminal Justice Review

Alaska's criminal justice agencies are struggling to keep up with the demand for services. The high volume of cases processed daily through the system stretches resources thin. Prison overcrowding is often the most visible symptom of this stress, but it is only one manifestation of the problem. Other examples include overcrowded court calendars,² over-extended probation and monitoring services,³ and insufficient alcohol and mental health treatment services.

Most participants in the criminal justice system believe that all parts of the system are stressed. Further, they recognize that actions to relieve stress in only one part of the system - without making adjustments in other parts - invariably only shift the stress points. They do not solve the problem. For example, hiring more police officers to address the problem of crime generally results in more work for every other justice agency. Additional arrests require more corrections beds to house new defendants, both pretrial and post-conviction. More funds are needed for the prosecution and defense of these cases and the courts that manage the added cases. Finally, as more offenders are released from institutions, there is generally a greater demand for post-sentence monitoring and treatment services. No part of the system operates in a vacuum.

Like many other jurisdictions, Alaska policy makers have historically relied on incarceration as the sanction of choice for most crimes. Criminal justice legislation has usually reflected a "get tough on crime" approach that generally results in longer sentences. More recently, however, there has been a national shift in attitude. As criminal justice system resources have been stretched thinner and thinner, a number of jurisdictions have begun to rethink their criminal justice system goals and concluded that incarceration does not, in and of itself, prevent or even reduce crime. Instead, these jurisdictions have determined that public safety is not just an issue of toughness but also of effectiveness.

² Between FY95 and FY98, felony case filings statewide increased by 29%. Misdemeanor filings increased by 4%. Between FY97 and FY98, felony case filings statewide increased by 7%. Misdemeanor filings increased by 8%. ALASKA COURT SYSTEM, ALASKA COURT SYSTEM 1998 ANNUAL REPORT Tables S-24 and S-49 (1998).

³ Probation caseloads continue to increase annually. Since 1994, the average monthly caseload has grown from 2838 to 4388 felony cases. Misdemeanor probation is not supervised, except in very rare instances.

Another shift occurring nationwide is greater inclusion of the community and the victim in the criminal justice paradigm. Inclusion can occur on many levels. It is critical for long-range criminal justice planning purposes. But it also can be the key to implementing new and innovative programs. For example, a number of jurisdictions have begun to use "restorative justice" models that focus on recognizing and fulfilling victims' needs for restitution and healing and the need to hold offenders accountable. The community plays a role in making it possible to meet these needs by providing the environment and resources necessary for justice to occur. Use of volunteers also can help bridge gaps in existing services and invest community members with a stake in the criminal justice process.

While the Commission examined these and other issues, it also considered several factors that make Alaska unique. One of the most obvious of these factors is Alaska's size. At roughly one-fifth the size of the entire contiguous United States, Alaska is huge in comparison to other states. Moreover, with the exception of the larger urban centers, much of the state is accessible only by boat, plane or snowmachine. This unique geography presents challenges for the provision of many governmental services such as law enforcement and prosecution, court services, public defender services, detention, and probation and parole. It also makes the provision of alcohol, drug, mental health, and sex offender treatment services more difficult.

Coupled with the challenge of geography is the need to serve a relatively small but culturally-diverse population. At least one-quarter of Alaska's people come from cultural or ethnic minority groups. Many Alaska Natives speak Native languages, and a number of recent immigrants speak English poorly or not at all. A recent study by the Alaska Supreme Court Advisory Committee on Fairness and Access examined the issue of cultural and ethnic bias within the context of the state court system. It concluded that many minority residents find the courts intimidating to the point of being inaccessible. Cases are complicated by language barriers, cultural differences, lack of access to attorneys, lack of familiarity with legal system procedures and mistrust.⁴ Similar issues exist in the provision of probation and parole supervision and treatment services. A concern shared by many Commission members was that system-wide, services needed to be more readily understandable and culturally relevant to all participants.

Across Alaska, new and innovative ideas and approaches to criminal justice policy have surfaced with increasing frequency. Some of the many examples include restorative justice, tribal justice, electronic monitoring, culturally-relevant treatment programs, drug courts and mental health courts. To maximize the benefit from these ideas and to ensure that what emerges from them is a well-

⁴ ALASKA COURT SYSTEM, REPORT OF THE ALASKA SUPREME COURT ADVISORY COMMITTEE ON FAIRNESS AND ACCESS vii (1997).

coordinated, effective criminal justice system tailored to meet Alaska's unique needs, broader collaboration and coordination of effort is needed. The Criminal Justice Assessment Commission, with its diverse array of members from across the criminal justice spectrum, offered such a vehicle. It provided a forum for exploring existing ideas, generating new ideas, and developing recommendations for long-range policy planning.

B. The History of Criminal Justice Agency Collaboration in Alaska

The concept of cooperative criminal justice public policy planning is not new to the State of Alaska. For at least the past twenty-five years, criminal justice agencies have collaborated to varying degrees to carry out their missions. Their objectives have included protecting public safety, prosecuting criminal offenders, protecting constitutional and statutory rights of victims and offenders, resolving criminal cases, and rehabilitating criminal offenders. A brief history of these efforts provides a context for understanding the work of the Criminal Justice Assessment Commission and its present recommendations.

The first of this series of cooperative endeavors was the Criminal Justice Planning Agency (CJPA), established in the early 1970's to administer the flow of federal Law Enforcement Assistance Administration (LEAA) funds to the state. CJPA's membership included several executive branch agencies (the Department of Law, the Department of Health and Social Services and its Division of Corrections, the Public Defender Agency and the Department of Public Safety), as well as representatives from the judicial branch, the legislative branch and the public. In addition to approving grant applications and distributing and monitoring LEAA funds, the CJPA carried out criminal justice planning for the state and collected and analyzed data. With the demise of the federal LEAA program in the late 1970's, CJPA became a program of the Department of Law. It ended its work in about 1982. Its statistical analysis work was picked up by the University of Alaska Justice Center in Anchorage, which became the federally-funded Statistical Analysis Center.

For the remainder of the 1980's, ad hoc criminal justice coordination and planning were carried out by a series of "criminal justice working groups," typically initiated and staffed by the state's Attorneys General. The membership of the working groups varied but typically included, at a minimum, the Attorney General, the executive branch agencies, the Administrative Director of the Courts, a representative of the Alaska Association of Chiefs of Police, and a representative of the Alaska Judicial Council.

The criminal justice working groups carried out a variety of projects under the different administrations. At different times, members coordinated presentations to the legislative judiciary

and finance committees to provide a better understanding of the fiscal and policy interdependence of the agencies and branches of government. The presentations emphasized the effects (often unexpected or unintended) of increases or decreases in agency budgets or programs on all of the other criminal justice agencies. Some working groups had staff assistance, drafted legislation, compiled data, or prepared joint position papers on legislation. Perhaps most importantly, the working groups provided a chance for the heads of agencies and the different governmental branches to regularly discuss and resolve problems that arose during each agency's routine work.

In 1990, the legislature established the Alaska Sentencing Commission to review the state's sanctioning system and to address issues of prison overcrowding. The Commission's fourteen members included representatives from all of the earlier criminal justice working group member agencies, as well as one justice and one judge representing the courts, one member of the Alaska House of Representatives and one member of the Alaska Senate, two victims' group members, and members with backgrounds in rehabilitation and academic work. Commission staff worked under the direction of the Alaska Judicial Council to compile and analyze data, conduct research into approaches to sanctioning used by other states and jurisdictions, prepare position papers and reports, and draft recommendations about different aspects of the criminal justice system. The Commission issued three reports, making recommendations about sentencing structures, specific offenses, actions the state should take to meet the needs of different groups including ethnic and cultural minorities, and approaches the state could use to reduce the cost of criminal justice operations in the event of budget downturns. The Commission completed its work in 1992.

Following the end of the Sentencing Commission's work, former Governor Hickel created a new criminal justice working group that included all three branches of government, with the Chairs of the House and Senate Judiciary Committees representing the legislature, and the Administrative Director of the Courts representing the judicial branch. The Alaska Judicial Council assisted in the staffing and coordination of the work of this group which functioned through 1994. During the same period, two other criminal justice collaborative efforts involving inter-branch policy makers occurred. One focused on reducing prison overcrowding. The other centered on coordinating improvements in the state's criminal justice information systems. In part as a result of the second group's work, the legislature created a permanent Criminal Justice Information Systems Advisory Board, chaired by the Commissioner of Public Safety, that includes all of the core members of the earlier criminal justice working groups.

The presence for most of the past quarter-century of an inter-branch cooperative working group in the criminal justice system has benefitted the state in several ways. Most importantly, agencies have had a regular opportunity to meet and resolve problems created by population changes, policy or

legislative changes by state, federal or local bodies, or by changes in patterns of criminal behavior. Agencies have taken the time to educate each other, the legislature, and, indirectly, the public, about the need for criminal justice agencies to work together in order for each one to achieve the constitutional objectives of protection of the public, consideration of victims, and reformation of offenders. The working groups have at different times analyzed the state's sanctioning policies, prison overcrowding issues, issues regarding the treatment of ethnic and cultural minorities, the need for an improved and shared criminal justice information system, and criminal justice system funding issues. These issues, which will continue to exist for the foreseeable future, can best be addressed in the context of a cooperative working environment.

C. The NIC Criminal Justice System Project

After a hiatus of about two years during which the Criminal Justice Cabinet functioned without participation from the other branches of government, the Department of Corrections (DOC), on behalf of Governor Knowles' Criminal Justice Cabinet, applied in October of 1996 to the National Institute of Corrections (NIC)⁵ to participate in the Criminal Justice System Project. This federally funded grant project was designed by the NIC to "assist state and local policy makers to develop a more purposeful, cost effective, and coordinated system of criminal justice sanctions."⁶ Although prison overcrowding provided the impetus for the Cabinet to participate in the project, the Cabinet recognized the project as an opportunity to bring together representatives from across the criminal justice spectrum to examine a broader range of criminal justice goals and policies. In March 1997, Alaska, along with nine other jurisdictions, was chosen to participate in the project.⁷

⁵ The National Institute of Corrections (NIC) is a small agency within the United States Department of Justice, Federal Bureau of Prisons that provides assistance to federal, state, and local corrections agencies working with adult offenders. Its mission is to clarify issues and provide leadership to shape current and future criminal justice policies and practices that affect corrections. To do so, it provides training, technical assistance, information services and policy/program development assistance to federal, state and local corrections agencies. NIC is unique among federal agencies because it provides direct services, rather than financial assistance, as the primary means of carrying out its mission. Services respond directly to needs identified by practitioners working in state and local corrections.

⁶ The Criminal Justice System Project is premised on three elements: 1) the establishment of an ongoing policy analysis process led by a diverse team of criminal justice policy makers and community leaders; 2) the full participation and collaboration of criminal justice decision makers and community leaders within a jurisdiction; and 3) a rational policy that is driven by data and information.

⁷ Alaska was the only state selected to participate in the project. The remaining participants were local governmental entities. They were: Maricopa County, Arizona; Napa County, California; Hennepin County, Minnesota; Dutchess County, New York; St. Lawrence County, New York; Tulsa County, Oklahoma; Jackson County, Oregon; Portage County, Wisconsin; and Wood County, Wisconsin.

II. History and Organizational Structure of the Commission

A. Overview

Once Alaska was selected to participate in the Criminal Justice System Project, a diverse group of criminal justice policy makers representing all three branches of government, together with other community members, began meeting in July of 1997. This group became known as the Criminal Justice Assessment Commission.⁸ The Commission included representatives from the Alaska Supreme Court, the Alaska Court of Appeals, the superior and district courts, the Alaska Court System administration, the Alaska Departments of Law, Corrections, Health and Social Services, and Public Safety, the Anchorage Municipal Prosecutor's Office, the Public Defender Agency, the Office of Public Advocacy, the Alaska State Legislature, the Alaska Judicial Council, Victims for Justice, the mental health and substance abuse treatment community, and the Alaska Native Justice Center. The Commission conducted quarterly meetings using a consensus model to make decisions.

A steering committee met intermittently to help structure the Commission's work. On the recommendation of the steering committee, five additional committees were established. They were the:

Alcohol Policy Committee;
Decriminalizing the Mentally Ill Committee;
Pretrial Practices and Procedures Committee;
Probation and Parole Committee; and
Sentencing Committee.

The full Commission and the committees were guided in their work by the following mission statement:

The Criminal Justice Assessment Commission shall use a collaborative process to:

review, develop, recommend, and implement strategies within the criminal justice system so that all offenders are held appropriately accountable for their conduct;

⁸ In October of 1997, the Commission was officially recognized through a formal resolution signed by the Governor, the Chief Justice of the Alaska Supreme Court, the President of the Alaska Senate and the Speaker of the Alaska House of Representatives. A copy of the resolution is contained in the appendix.

promote responsible alternative options or community solutions for pretrial and post-conviction incarceration for misdemeanants and felons;

work to make the criminal justice system more cost-effective to the extent this may be achieved without compromising public safety;

and promote system efficiencies to relieve prison overcrowding.

B. The Role of the Commission Committees

The committees were instrumental in helping the Commission carry out its work. Each met regularly to discuss ideas, examine policy, gather facts, and generate proposals and recommendations. Committee progress was generally reported by the committee chair to the Commission at its quarterly meetings. In addition, in September 1998 and in October 1999, the Commission held two-day conferences, attended by most Commission members and some committee members. At the September 1998 conference, the committees submitted proposals that were designed to further the Commission's goals⁹ to the Commission for review and approval. Most were approved, a few were tabled, and some were referred back for further development. Several of these proposals resulted in the establishment of pilot programs that are discussed in this report.¹⁰ At the October 1999 conference, each committee submitted its final recommendations to the Commission, most of which were adopted and are contained in Chapter IV of this report.

A brief description of each committee is set forth below:

Alcohol Policy Committee - The Alcohol Policy Committee was the last committee to be established. Because of the overwhelming importance of alcohol as a cross-over issue affecting all the committees, the Commission determined that a separate committee was needed to address the formulation of a statewide alcohol policy. The committee began meeting in January 1999 with members from the judiciary, the State of Alaska and Municipality of Anchorage Departments of Law, the Department of Corrections, the Office of Public Advocacy, the Public Defender Agency, the treatment community, the Alaska Mental Health Trust Authority, the Department of Public Safety, the Anchorage Municipal

⁹ The written materials submitted to the Commission by the committees are available for viewing at the offices of the Alaska Judicial Council.

¹⁰ The committee proposals are contained in this report. Some appear as accomplishments in Chapter II, Section D. Some evolved into recommendations that were adopted by the Commission. These appear in Chapter IV. The remainder appear in the Appendix as "September 1998 Conference/Other Committee Proposals."

Health Department, the Alcohol Safety Action Program, and the community at large.¹¹ The committee focused on alcohol control issues (such as taxation and enforcement), general policy issues (such as restructuring of the Alcoholic Beverage Control Board and improving responses to underage drinking), and alcohol abuse response issues (such as treatment and monitoring).

Decriminalizing the Mentally Ill Committee - The Decriminalizing the Mentally Ill Committee (DMI Committee), the largest of the Commission committees, began meeting in July 1997. Building on the earlier efforts of the Alaska Mental Health Board Shared Vision II Forensic Task Force, the DMI Committee examined the growing problem of the criminalization¹² of the mentally disabled, resulting in the increasing use of expensive beds to house low-risk mentally disabled individuals.¹³ The DMI Committee focused on developing strategies to improve criminal justice system efficiency in processing cases involving the mentally disabled. It also examined strategies designed to shift the burden of care for low-risk mentally disabled individuals from DOC to appropriate non-correctional community-based alternatives. Its membership included experts and professionals representing most organizations affected by and interested in mental health issues. DMI Committee members anticipate that the partnerships forged through this committee process will continue into the future.

Pretrial Practices and Procedures Committee - The Pretrial Practices and Procedures Committee began meeting in March 1998 with members from the Anchorage Municipal Prosecutor's Office, the Departments of Law and Corrections, the Public Defender Agency, the Office of Public Advocacy, the judiciary, and a private criminal defense law firm. Strategies to streamline pretrial release procedures, methods to reduce the costs of housing pretrial detainees, and eliminating unnecessary court proceedings were among the issues considered by this committee. Due to issue overlap, the Pretrial Practices and Procedures Committee held several joint meetings with the Sentencing Committee to consider issues such as electronic monitoring and performance bonds.

¹¹ A list of each committee's membership is contained in the appendix.

¹² Criminalization refers here to placing mentally disabled offenders who have committed minor crimes, such as trespass and disorderly conduct, into the criminal justice system instead of the mental health system.

¹³ Throughout this report, the term "mentally disabled" collectively refers to the four categories of beneficiary groups under the protection of the Alaska Mental Health Trust Authority. See AS 47.30.056. The beneficiary groups defined by statute include the "mentally ill," the "mentally defective and retarded," "chronic alcoholics suffering from psychoses," and "senile people who as a result of their senility suffer major mental illness." Listings of the specific disorders included within each of these diagnoses are set forth at AS 47.30.056(d) through (g).

Probation and Parole Committee - When the committees were originally formed, the Commission created a Parole Committee and a Sentencing and Probation Revocation Committee. Within several months, as the committees began to focus on their respective issues, the Commission determined that probation and parole issues were best studied by one committee. It therefore restructured and renamed these two committees: the Probation and Parole Committee and the Sentencing Committee. Members of the Probation and Parole Committee came from the Departments of Law and Corrections, the Parole Board, the court system, local law enforcement agencies, the Alaska Judicial Council and the Native Justice Center. Committee members examined a number of issues pertaining to parole and probation revocation procedures and correctional classification issues. The committee focused on strategies to maximize use of existing resources, improve system efficiency, reduce system costs and increase use of volunteers.

Sentencing Committee - Representatives from the Departments of Law and Corrections, the Anchorage Municipal Prosecutor's Office, the Public Defender Agency, the Office of Public Advocacy, the judiciary, Cornell Corrections (a private corrections group), the Hiland Mountain Advisory Group, the Native Justice Center, Victims for Justice, and Akeela Treatment Services (a substance abuse treatment agency) made up the Sentencing Committee. It began meeting in January 1998 to discuss issues such as electronic monitoring, sentencing policy (including proposed legislative changes), and issues related to the supervision of misdemeanor probationers. It conducted several joint meetings with the Pretrial Practices and Procedures Committee.

C. The NIC's Preliminary Report

In addition to the work performed by the Commission and the committees, the National Institute of Corrections (NIC) conducted its own preliminary assessment of Alaska's criminal justice system. According to project guidelines, its purpose was threefold:

- to establish baseline information about how the criminal justice system currently operates in the jurisdiction;
- to assist policy makers in understanding what the baseline information tells them about their jurisdiction's criminal justice system; and
- to assist policy makers in developing strategies for involving criminal justice system decision makers and the broader community in understanding and creating innovative responses to crime and corrections in their communities.

A team of consultants and NIC liaisons came to Alaska in June 1998 to conduct a five-day onsite criminal justice system review. The team's report, published in March 1999, included background information about the history and development of Alaska criminal justice policy and brief descriptions of the criminal justice agencies.¹⁴ It discussed case processing, the use of jails, the probation and parole processes, and the state's criminal justice information systems. It also compared data about Alaska's criminal justice process with data from other states. The report concluded with NIC's findings, observations and recommendations. These included:

On Native Alaskan Issues:

- Support the expansion of culturally relevant substance abuse treatment resources in prison and in the community.
- Evaluate some of the "alternative" options being discussed, such as tribal courts, restorative justice, circle sentencing, etc.

On Sentencing:

- Contemplate a process through which a comprehensive review of the criminal code and sentencing policies can occur in order to develop a system that is easier to understand and use.

On Prison Classification:

- Consider revamping the current DOC prison classification system in favor of a more objective system.

On Pretrial Issues:

- Study the use, effect, and effectiveness of pretrial release practices in Anchorage and other sites.
- Institute a standard system of data management for use by all facilities that house pretrial detainees.
- Conduct a statewide study of pretrial capacity and needs and population forecasts.

¹⁴ The report prepared by the NIC team is available for viewing at the offices of the Alaska Judicial Council. See CHASE RIVELAND ET AL., A PRELIMINARY REPORT TO THE CRIMINAL JUSTICE COMMISSION (1999).

On Community/Regional Jails:

- Conduct regular community jail assessments and evaluations.
- Develop a system for maximizing use of beds in contract jails.
- Consider and study greater use of local jails as a means to provide additional bed capacity.

On Probation and Parole Violations:

- Conduct a systematic review of violations and revocations to better understand the types of violations and revocations occurring most frequently.
- Complete and study a flow-chart/map of the probation violation process.
- Engage in a process for developing statewide policies that acknowledge local differences for responding to probation and parole violations.
- Develop a research and information gathering agenda that will aid in answering policy questions about parole and probation violations.
- Develop a means of addressing the needs of rural and Bush communities and Alaska Natives.

On Programs and Sanctions:

- Discuss and re-evaluate the purposes of probation and parole.
- Create a policy that relies on a more effective continuum of sanctions for pretrial violations, for sentencing, and for probation and parole violations.
- Consider more effective tools for evaluating offender needs and risks so that appropriate programs and services can be developed.
- Consider developing new programs or expanding existing programs to respond to the specific needs of offenders including substance abusers, sex offenders, offenders with mental health issues, women, and parolees.
- Consider using volunteers in all aspects of the criminal justice system.
- Consider supervising misdemeanor offenders.