

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10271 HOUSE JUDICIARY

**HB**

**133**

HB 133  
House Judiciary Committee

Amendment No. \_\_\_\_\_

Page 5

Delete

“The defendant shall file the form with the court within 30 days after conviction of a felony and within 5 days after conviction of a misdemeanor.”

Substitute:

“The defendant shall submit the form to the Probation Office within 30 days after conviction of a felony, and the Probation Officer shall attach the form to the presentence report. After conviction of a misdemeanor, the defendant shall file the form with the court with the response or opposition to the restitution amount.

# STATE OF ALASKA

## DEPARTMENT OF LAW CRIMINAL DIVISION

TONY KNOWLES,  
GOVERNOR

*Mailing:* PO Box 110300  
Juneau, AK 99811-0300  
*Delivery:* 123 4<sup>th</sup> Street, Ste 717  
Juneau, AK 99801  
*Phone:* (907) 465-3428  
*Fax:* (907) 465-4043

February 27, 2001

**FEB 27 2001**

The Honorable Norm Rokeberg  
Chairman, House Judiciary Committee  
State Capitol Building, Room 118  
Juneau, AK 99801

Re: Request for hearings for House Bills 133 and 134

Dear Chairman Rokeberg:

House Bill 133 (relating to victim restitution) and House Bill 134 (relating to victim rights) have been introduced at the request of the Governor and each has been referred to the Judiciary Committee and Finance Committee. We are writing to request a Judiciary Committee hearing at your earliest convenience.

House Bill 133 proposes the most meaningful change in restitution laws in many years. As you know, the Victims Rights amendment in Art. I, sec. 24, of the Alaska Constitution was enacted overwhelmingly by the voters, and it contains a specific right of crime victims to restitution from offenders. Until now, Alaska law has focused only on setting the amount of restitution, with little attention given to the precise method of collection. This bill provides an effective mechanism for collection of restitution, and is strongly supported by victim advocates statewide.


House Bill 134 introduces a number of measures that will enhance or expand on current rights of crime victims, and contains brand new provisions for recovering stolen property and allowing stalking victims to obtain judicial protective orders. This, too, is strongly supported by victim advocates.

We would be pleased to discuss these topics with you or your staff at any time, and we look forward to working with the Judiciary Committee on these important bills.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:

  
Dean J. Guaneli  
Chief Assistant Attorney General

DJG:vr

TONY KNOWLES  
GOVERNOR

HB 133  
P O Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 16, 2001

The Honorable Brian Porter  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Porter:

Victims of crime or delinquent acts have had their integrity and their sense of security undermined. Their property is often lost or damaged. As a means to recover some measure of economic and psychological wholeness, the court may order an offender to pay restitution to the victim. Unfortunately, many victims never receive that repayment for monetary loss or damages caused by an offender. Those who do often had to first struggle through a frustrating and confusing system.

This bill I am transmitting today addresses this gross injustice by setting up a simple restitution collection program for victims. Under this proposal, the system will work for the victim, instead of forcing the victim to work the system.

The bill authorizes the Department of Law (department) to collect restitution payments on behalf of victims. The department already has expertise in collecting money due the state. Extending this authority to restitution collection will help victims in a concrete and useful way. Under this collection authority, the department will be able to attach Permanent Fund Dividends, garnish wages, and take other measures to seek full restitution payment to victims.

The bill also identifies a source of money to pay victim restitution -- money or other security that has been forfeited to the court as a result of a defendant's violation of bail or conditions of release. Currently, those forfeited assets are deposited in the state general fund. The state would be able to seek a separate judgment to replace any of this forfeited money to the general fund. This provision essentially puts the victim in a priority creditor status, but retains the defendant's obligation to pay or forfeit the full amounts ordered by the court.

HB 133

The Honorable Brian Porter  
February 16, 2001  
Page 2

Criminal justice professionals today tout the value of restorative justice. Basic restorative justice principles include holding offenders accountable for their conduct that harms victims and the community. Accountability means accepting responsibility and taking action to repair the harm done to the victim. This bill recognizes a key element of restorative justice – restitution – and makes that element a reality by strengthening collection efforts for crime victims.

I urge your prompt and favorable consideration of this important legislation.

Sincerely,



Tony Knowles  
Governor

HB 133

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
Bill Version: HB 133  
(H) Publish Date: 2/19/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
Title "... restitution for criminal and delinquency acts; authorizing the state to collect restitution on behalf of victims ..." BRU Civil Division  
Sponsor Rules Committee Component Collections and Support  
Requester Governor Component No. 2210

**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	143.7	153.4	153.4	153.4	153.4	153.4
Travel	0.3	0.4	0.4	0.4	0.4	0.4
Contractual	99.8	141.1	141.1	141.1	141.1	141.1
Supplies	6.2	5.1	5.1	5.1	5.1	5.1
Equipment	56.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>306.5</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	306.5	300.0	300.0	300.0	300.0	300.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>306.5</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>

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	3	3	3	3	3	3
Part-time						
Temporary						

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

This bill will allow the state, at the option of a crime victim, to collect restitution on behalf of the crime victim or victim of a delinquent act. The collections would be performed by the Collections unit in the Collections and Support section of the Department of Law.

Currently, the Collections unit collects criminal fines and related costs and certain civil judgments and administrative penalties. The primary means of collecting these judgments is through annual automated attachment of permanent fund dividends. For civil judgments, additional collection actions may be taken, including attachment of bank accounts, garnishment of wages, and judgment debtor exams. With only a few exceptions, all money collected by the unit is paid to the general fund. Thus, the unit does not currently track individual payees.

The unit currently has a collections database which provides a method for efficient and streamlined collection of debts owed the state. With some modifications, the database and related collections procedures could be used to collect restitution on behalf

Prepared by: Joan M. Kasson Phone 465-5370  
Division Attorney General's Office Date/Time 2/15/01 1:20 PM  
Approved by: Kathryn Daughetee for Bruce M. Botelho, Attorney General Date 02/15/2001  
Agency Department of Law

For distribution information, call the Governor's Legislative Office

## FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

### ANALYSIS CONTINUATION

of crime victims.

No actual count of the number of victim restitution judgments per year is maintained. Based on the number of criminal convictions and delinquency dispositions in FY00 for crimes and violations that usually have a restitution judgment entered by the court, we estimate there could be as many as 5,000 to 5,500 restitution orders each year.

In order to add restitution judgments to its caseload, the Collections unit will need to upgrade its existing computer system including 1) the purchase of computer hardware with a larger storage capacity to handle the increased caseload, and 2) computer programming to allow the collections database to recognize restitution judgments and track payee information. Further, four new administrative positions will be necessary to handle these new cases.

The Collections unit anticipates it will need one new full-time Administrative Clerk II to enter judgment data into the database and update victim and defendant information, hold primary responsibility to handle phone calls from victims and defendants, and file paperwork. A full-time Legal Secretary I will also be needed to send introductory letters to victims and defendants regarding the collections process, post payments, prepare check requests and send payments to victims, assist the Administrative Clerk with phone calls from victims and defendants, and calendar and monitor inactive cases for periodic locate efforts. A FTE paraprofessional will be required to obtain writs of execution, prepare court paperwork for bank sweeps and wage garnishments, coordinate with probation officers, the Criminal Division, and other state and municipal agencies as required to obtain information necessary to collect the debts owed the victim, and manage any private collection contracts. An additional full-time Accounting Clerk II will also be necessary to process the payment distribution to victims upon successful collection of the debts. This position will be located in the Administrative Services Division of the Department of Law, and funded by intra-agency receipts from Collections and Support in the Civil Division BRU.

The cost of a FTE paraprofessional (\$92.2) is based on the Civil Division's FY02 standard cost allocation schedule, and includes general clerical support, communications, space, supplies, data processing, and other normal overhead expenses. However, the hourly rate for Civil Division attorneys and paraprofessional does not recover the costs of clerical positions in the Collections unit because these positions are specialized and are not available to other sections. Therefore, the three new clerical/administrative positions to handle victim restitution must be added separately. (Admin Clerk II: \$44.7; Legal Secretary II: \$50.0; Accounting Clerk II: \$43.5)

Computer hardware upgrades and programming upgrades will take place in FY02. It will not be necessary to put all the staff on until the upgrades are complete. This funding request short-funds the positions in FY02, and shifts the funds for equipment and programming in FY03 back into personnel and other on-going costs. Only the equipment costs for the Legal Secretary I position of \$6.5 are considered one-time funds.

This fiscal note partially duplicates an increment for \$250.0 that is included in the Department of Law's FY02 operating budget request to implement this legislation. The additional \$56.5 in this fiscal note is for the Legal Secretary II position. When the operating budget was being developed, Collections was expecting only a few hundred new cases would result. The increment did not anticipate thousands of new cases. The two positions originally envisioned could not handle the volume of correspondence and telephone calls this many new cases will generate, in addition to doing the work necessary to legally process the judgments to collect restitution. An operating budget amendment will be submitted for the additional \$56.5 so this fiscal note will mirror the increment request.

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

BILL NO. HB133

Revision Date/Time (Note if correction) _____	Dept. Affected _____
Title <u>Restitution for criminal &amp; delinquent acts</u>	BRU <u>Alaska Court System</u>
Sponsor <u>House Rules by Request of the Governor</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	11.6					
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>11.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	11.6	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>11.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

House Bill 133 establishes procedures whereby the Department of Law will collect restitution on behalf of victims of criminal and delinquent acts. This fiscal note reflects a one-time cost for the court system's forms committee to meet and develop the forms, procedures, and clerical instructions necessary to implement the provisions in this bill. It also reflects the one-time costs associated with an additional day of training during our annual clerk's conference. Additional costs associated with the separate accounting of forfeited cash or securities, petitions for attorney fees, separate orders of restitution, and other minor changes are offset by the savings the court will realize by not having to collect and distribute the restitution that will now be handled by the Department of Law.

Prepared by: <u>Douglas Wooliver, Administrative Attorney</u>	Phone <u>463-4750</u>
Division: <u>Alaska Court System</u>	Date/Time: <u>4/11/01 10:23 AM</u>
Approved by: <u>Stephanie J. Cole, Administrative Director</u>	Date: _____
Agency: <u>Alaska Court System</u>	

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Sitkans Against Family Violence  
P.O. Box 6136  
Sitka AK 99835  
(907) 747-3370  
(907) 747-3450 FAX

To: Representative Rokeberg Fax: 907-1907-465-2040  
From: Grace Brooks Date: 04/20/2001  
Re: HB 133 and HB134 Pages: 2

Urgent  For Review  Please Comment  Please Reply  Please Recycle



Representative Rokeberg:

I am writing in support of HB 133. I support legislation that enhances the rights of victims and provides assistance to them in working their way through the criminal justice system. I particularly support streamlining the restitution process, the highest priority of the Victims Rights Roundtable discussion this summer.

I am also writing to urge that a hearing and action on HB 134 take place. I am particularly interested in this bill because it:

- Provides a protective order process for victims being stalked by strangers or others they have no relationship with. When I lived in Seattle I was stalked by a male client and was able to acquire an OPF and am grateful I was able to obtain the OPF.
- Requires that guardian at litem and child custody investigators receive training in domestic violence from a

.....

domestic violence program.

- Make "lesser" violations of OFP's a crime of contempt so that the court/prosecutor can take some action to hold the violator accountable (making a single phone call in violation of an OFP or sending a letter in violation).

**Subject: HB 133**

**Date:** Tue, 10 Apr 2001 16:17:57 -0800

**From:** "MADD Anchorage Chapter" <madd@corecom.net>

**To:** <Shari\_Kochman@gov.state.ak.us>, <Represeative\_Albert\_Kookesh@legis.state.ak.us>, <Representative\_Ethan\_Berkowitz@legis.state.ak.us>, <Representative\_Kevin\_Meyer@legis.state.ak.us>, <Representative\_Jeannette\_James@legis.state.ak.us>, <Representative\_John\_Coghill@legis.state.ak.us>, <Representative\_Scott\_Ogan@legis.state.ak.us>, <Representative\_Norman\_Rokeberg@legis.state.ak.us>

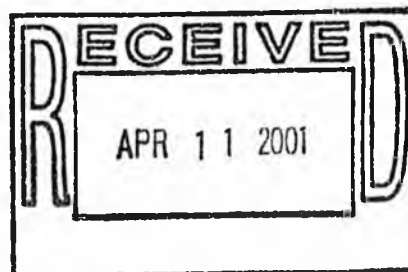
**CC:** "Cindy Cashen" <cashen@gci.net>, "MADD Juneau" <jnumadd@ptialaska.com>

As a result of my participation in Community Justice Conferences facilitated by the Department of Corrections Victim Service Unit and held in Anchorage, Fairbanks, Juneau and the Kenai Peninsula, the number one concern of the community, of victim service providers and of victims themselves attending the conferences was the lack of ability to recoup the actual financial, property and personal losses from the victimization following the trauma.

Additionally, as a participant in the victims' round table discussion facilitated by the office of the Governor including victims, victim service providers and representatives of the criminal justice system who also work with victims, the number one concern they have heard expressed was restitution.

On behalf of the victims served by MADD, and based on twenty-five years experience hearing and responding to the specific concerns of victims of violence, I am supporting HB 133 as response to the single most important issue expressed by victims in Alaska.

Marti Greeson  
Executive Director  
MADD Anchorage Chapter





## Safe and Fear-Free Environment, Inc.

Post Office Box 94 Dillingham, Alaska 99576  
 Office: (907) 842-2320 Fax: (907) 842-2198  
 24 Hour Toll Free Crisis Line: 1-800-478-2316

### SERVICES PROVIDED

Safe Shelter  
 Crisis Intervention  
 Emergency Transportation  
 24 Hour Crisis Line  
 Advocacy & Support  
 Children Services  
 Medical & Court Accompaniment  
 Information & Referral  
 Legal Advocacy  
 Community Education & Awareness  
Presentations & Training  
 Domestic Violence  
 Sexual Assault  
 Child Abuse  
 Sexual Harassment  
 Elder Abuse  
 Parenting  
 Conflict Resolution  
 Workplace Safety  
 "Serving all of Bristol Bay Since 1982"

19 April 2001

APR 19 2001

Representative Rokeberg, Chair  
 House Judiciary Committee  
 P.O. Box V  
 Juneau, Alaska 99811

Dear Chairman Rokeberg and Members,

I am writing to express my support for HB 133 and HB 134 and to ask for your positive vote in moving the bills from Committee.

HB 133 reflects the recommendations of the Victim Rights Roundtable group that met in Anchorage last fall. As a crime victim's advocate, I was privileged to be a part of that group and able to bring the collective voice of the people I serve to that table. I was privy to the discussions that took place on a whole range of victims rights issues and it was unanimously agreed that correcting the restitution problem was a number one priority. Restitution alone won't make crime victims whole again, but it helps to re-empower victims and can go a long way toward the healing process and holding perpetrators accountable for the wrong they do.

I understand that HB 133 is scheduled for a hearing before the full Committee on Friday, April 20. On behalf of the people I work for and for my own family members who have been victims of crime, I ask that you vote positively to move the bill on to the next committee of referral.

HB 134 is another measure addressing crime victim's rights that is currently in the House Judiciary Committee. There are three key elements in HB 134 that are critical to victims. The first provides a protective order process for persons who are being stalked by a stranger or someone with whom they do not have an intimate or family relationship. Stalking is a terrifying crime that happens way too often in Alaska. And if you or someone you love is targeted by a stranger, you have little recourse for protection. HB 134 would enhance the safety of victims and the resources for protection available to them.

A second provision in HB 134 would require guardian ad litem's and child custody investigators to be trained in domestic violence issues. It's a bit shocking to think that the law doesn't already require this and that these people may have been out there making life shaping decisions and recommendations without basic training in family violence issues.

A third provision in HB 134 has direct impact of victims of domestic violence by permitting court actions in response to "lesser" violations of protective orders. Under current law, the court and police are limited in responding to a petitioner who sends his partner a letter or makes a single phone contact in violation of the "no contact" provisions of a protective order. Taken one at a time, these minor violations don't seem to be a problem, but for a victim of domestic violence they can have a devastating impact as they are part of the pattern of abusive and coercive behavior that defines intimate partner violence.

HB 134 would put some teeth in the law that would help protect victims of crime. I ask that you schedule the measure for hearing as soon as possible and move it out of committee with your positive vote.

Thank you for giving me an opportunity to comment on these measures. And thank you all for the hard work you do and the even harder work that lays before you in these closing weeks of the Legislative Session.

Sincerely,



Ginger Baim, Executive Director  
Safe and Fear-Free Environment, Inc.



# Alaska Women's Resource Center

111 W. 9th Avenue • Anchorage, Alaska 99501 • (907) 276-0528 • Fax: (907) 278-8944

TO: Rep. Rokeberg - 907-465-2040

"We support any legislation that enhances the rights of victims and provides some assistance to them in working their way through the criminal justice system. We particularly support streamlining the restitution process, the highest priority of the Victims Rights Roundtable discussion this summer. We also support measures that will assist victims at the beginning of the process because it will better assure their ability to exercise all the rights available to victims of crime. Please give your positive support for HB133.

Mary Ideran   
Executive Director, AWRC



## Unalaskans Against Sexual Assault & Family Violence

Box 36, Unalaska, AK 99885 • Office: 581-1500 • Crisis Line Call: 711

April 19, 2001

Representative Norman Rokeberg  
Chair of House Judiciary Committee  
State Capital, Room 118  
Juneau, AK 99801-1182

Dear Representative Rokeberg,

I am writing out of concern for HB133, the Governor's Crime Victim's Restitution Bill, which is going to be heard in the House Judiciary Committee on Friday. It is my understanding that the Governor's Bill may be rolled into SB 105 (the Office of Victim's Rights bill).

Unalaskans Against Sexual Assault & Family Violence (USAFV) supports any legislation that enhances the rights of crime victims, and provides assistance to victims as they work their way through the sometimes nebulous criminal justice system. We particularly support streamlining the restitution process, the highest priority of the Victim's Rights Roundtable discussion this summer. We also support measures that will assist victims as they start the process, because it will better assure their ability to exercise all of the rights available to them as crime victims.

Please give your positive support to HB 133 and pass it from committee.

Thank you.

Sincerely,

M. Lynn Crahe

Director

Unalaskans Against Sexual Assault & Family Violence (USAFV)

# Public Opinion Message

Valdez Legislative Information Office (LIO)  
PO Box 1000 • Valdez, AK 99685 • Phone: 835-2111 Fax: 835-2097

This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

**From:** Please PRINT the information below. This form must be signed by the sender.

Mr./Ms./Mrs.	First Name	Initials	Last Name	Mr./Ms./Mrs.
MARKS	MELISSA	S	Bowden	
Group (Name of Association)				Phone Number
ADVISA - AVV				835-2980
Mailing Address				Zip
PO BOX 524 Valdez AK				99686
Residence (Name of Street & City/State/Zip)				Zip
851 Woodside St Valdez AK				99686
Email Address			Signature	Date
avv@pa.gov.net			Melissa Bowden	4/19/01

**To:** Put a ✓ in the appropriate box(es).

Committee		House members		Senate members			
<input type="checkbox"/>	H or S	<input type="checkbox"/>	Barbrowski (bar)	<input type="checkbox"/>	Karbala (kar)	<input type="checkbox"/>	Austerman (aust)
<input type="checkbox"/>	Community & Regional Affairs (cra)	<input type="checkbox"/>	Burda (bur)	<input type="checkbox"/>	Kohring (koh)	<input type="checkbox"/>	Cowdery (cow)
<input type="checkbox"/>	Finance (fin)	<input type="checkbox"/>	Chenault (che)	<input type="checkbox"/>	Kookach (koo)	<input type="checkbox"/>	Davis (dav)
<input type="checkbox"/>	Health, Ed., & Social Services (hes)	<input type="checkbox"/>	Clauns (cla)	<input type="checkbox"/>	Katz (kat)	<input type="checkbox"/>	Derby (der)
<input checked="" type="checkbox"/>	Judiciary (jud)	<input type="checkbox"/>	Coghil (cog)	<input type="checkbox"/>	Lancaster (lan)	<input type="checkbox"/>	Eds (eds)
<input type="checkbox"/>	Labor & Commerce (l&c)	<input type="checkbox"/>	Crawford (cra)	<input type="checkbox"/>	Masak (mas)	<input type="checkbox"/>	Eden (eds)
<input type="checkbox"/>	Resources (res)	<input type="checkbox"/>	Croft (cro)	<input type="checkbox"/>	McGuire (mcg)	<input type="checkbox"/>	Green (gre)
<input type="checkbox"/>	Rules (rle)	<input type="checkbox"/>	Davies (dav)	<input type="checkbox"/>	Meyer (mey)	<input type="checkbox"/>	Hatford (hat)
<input type="checkbox"/>	State Affairs (sta)	<input type="checkbox"/>	Dyson (dys)	<input type="checkbox"/>	Morgan (mor)	<input type="checkbox"/>	Hoffman (hof)
<input type="checkbox"/>	Transportation (tra)	<input type="checkbox"/>	Fate (fat)	<input type="checkbox"/>	Moses (mos)	<input type="checkbox"/>	Kelly (kelly)
<input type="checkbox"/>	Other:	<input type="checkbox"/>	Foster (fos)	<input type="checkbox"/>	Muscar (mus)	<input type="checkbox"/>	Larson (lar)
<input type="checkbox"/>	Other:	<input type="checkbox"/>	Green (gre)	<input type="checkbox"/>	Murkowski (mur)	<input type="checkbox"/>	Lincoln (lin)
<input type="checkbox"/>		<input type="checkbox"/>	Guess (gue)	<input type="checkbox"/>	Ogan (oga)	<input type="checkbox"/>	Olsen (ols)
<input type="checkbox"/>		<input type="checkbox"/>	Malco (mal)	<input type="checkbox"/>	Porter (por)	<input type="checkbox"/>	Pearce (pear)
<input type="checkbox"/>		<input type="checkbox"/>	Marris (mar)	<input checked="" type="checkbox"/>	Rosenberg (ros)	<input type="checkbox"/>	Phillip (phi)
<input type="checkbox"/>		<input type="checkbox"/>	Hayes (hay)	<input type="checkbox"/>	Scalz (sci)	<input type="checkbox"/>	Taylor (tay)
<input type="checkbox"/>		<input type="checkbox"/>	Hudson (hud)	<input type="checkbox"/>	Stevens (stv)	<input type="checkbox"/>	Therault (thr)
<input type="checkbox"/>		<input type="checkbox"/>	James (jam)	<input type="checkbox"/>	Whitaker (whi)	<input type="checkbox"/>	Torgerson (tor)
<input type="checkbox"/>		<input type="checkbox"/>	Joule (jou)	<input type="checkbox"/>	Williams (wil)	<input type="checkbox"/>	Ward (war)
<input type="checkbox"/>		<input type="checkbox"/>	Kupner (kup)	<input type="checkbox"/>	Wilson (wil)	<input type="checkbox"/>	Wilson (wil)

**Subject:** Fill out the boxes below OR enter a Subject.

HB or SB	Bill number	and check one:	<input type="checkbox"/> Support	<input checked="" type="checkbox"/> Oppose	<input type="checkbox"/> Amend	OR	enter a general Subject (LIO staff may modify):
HB	133						

**Message:** Your PRINTED message cannot exceed 50 words or contain any vulgar language.

We	need	your	support	for	HB 133
victims	of	crimes	need	support	
assistance	in	understanding	the	justice	
system.	we	particularly	support	streamlining	
the	restoration	process	and	measures	
that	will	assist	victims	at	
the	beginning	of	the	process	
because	it	will	better	assist	
assure	their	ability	to exercise	all	
rights	available	to	victims of	crime	







---

**Mothers Against Drunk Driving • Juneau Chapter**

211 Fourth St. Suite 102 • Juneau, AK 99801

APR 10 2001

**Governor's Victims Bill:**

Madd strongly supports the Gov. Victim Rights Package. MADD's mission statement includes aiding the victim of drunk driving. This bill is directly aimed at dealing with the drunk driving victims and unless you have ever lost a loved one to drunk driving you have no idea how vital this bill is to us. When my father was killed our minds and bodies went into shock. Unfortunately we faced before us a mountain of paperwork. Writing a check for the urn, signing permission for organ donation, re-writing the will, these were just a few of the personal ones we had to deal with. We also had to learn how the system worked in terms of my Mother's future. We were fortunate in that Dad was wise in his decision making concerning his possible early demise but many others have not been as fortunate. But even though my father acted in such a manner, it took weeks and even months to sort through the paperwork and even now, almost one year later, there is still some to be dealt with. Victims don't just get to grieve and mourn, we have to carry on with our lives, much as we sometimes wish not. Sometimes it is all we can do to get out of bed and get dressed. At times, to have the resources, the energy and the capability to focus on financial matters is simply not possible. It is common for the victims' brain to be in a frozen state of shock, one which can last for several months, even as long as a year. It is during this time, however, that decisions need to be made concerning financial restitution. How can a victim deal with such a huge, complicated subject when merely remembering someone's name is impossible? This bill would eliminate or take away much of the stressful work from the victim. This package would allow the victims to concentrate on healing. This package is a good thing, it shows the state of Alaska will care for its' victims. MADD urges this committee to support this package. Thank you.

## **Legislative Action Alert!**

Governor Knowles proposed victims rights legislation to make the justice system work for victims rather than forcing victims to work the system. None of these bills have received legislative hearings to date!

**Victims repeatedly say that being able to collect court-ordered restitution from their offenders would be one of the greatest benefits to their healing process. Yet our current system places the burden of restitution collection on the victims, just adding to their pain and trauma. To fix this unjust situation, Governor Knowles introduced:**

### **SB 107 and HB 133 - Victim Restitution Collection:**

- Makes sure victims receive their court-ordered restitution by creating a collection service in the Department of Law -- taking the burden of collecting offender restitution payments off the shoulders of victims.
- Allows the Department of Law to collect Permanent Fund Dividends, wages, and other offender assets to help pay court-ordered restitution to victims.
- Funds \$300,000 to the Department of Law to cover the cost of setting up the collection program which is **expected to help over 5,000 victims annually** in the state receive their restitution payments.

*Status of bills-SB 107 is in the Senate Judiciary Committee and HB 133 is in the House Judiciary Committee. Neither bill has received a hearing.*

**Governor Knowles has led several efforts during his tenure in office to enhance protections for victims. More work is needed in several areas such as improving access to protective orders, putting some teeth into those orders, and helping victims recover stolen property. To address these issues, Governor Knowles introduced:**

### **SB 106 and HB 134 - Victims Protection Package:**

- Simplifies procedures for victims to recover stolen property.
- Simplifies the process for stalking victims to get protection orders.
- Establishes a crime for violating protective injunctions in child of need of aid cases.
- Establishes that a protective order violation could be at least a contempt of court.
- Extends current disallowance of civil compromise in some domestic violence cases to all domestic violence cases.
- Offers an opportunity for speedier trials by allowing mitigated presumptive sentences for timely guilty or no contest pleas.
- Requires officials working with custody disputes to be trained in domestic violence law.

*Status of bills-SB 106 is in the Senate Judiciary committee and HB 134 is in the House Judiciary committee. Neither bill has received a hearing.*

### **Budget Request**

**The Governor requested \$250,000 to fund victim services. This would create a victim services coordinator in the Department of Health and Social Services to work with probation offices and youth facilities statewide to help them design and expand their victim service programs. It also continues funding the victim and witness notification program in the Department of Law.**

**Contact the members of the House and Senate Judiciary Committees and your elected representatives, urging them to hear these bills as soon as possible!**

**HB**

**134**

# STATE OF ALASKA

## DEPARTMENT OF LAW CRIMINAL DIVISION

**TONY KNOWLES,  
GOVERNOR**

**Mailing:** PO Box 110300  
Juneau, AK 99811-0300  
**Delivery:** 123 4<sup>th</sup> Street, Ste 717  
Juneau, AK 99801  
**Phone:** (907) 465-3428  
**Fax:** (907) 465-4043

February 27, 2001

**FEB 27 2001**

The Honorable Norm Rokeberg  
Chairman, House Judiciary Committee  
State Capitol Building, Room 118  
Juneau, AK 99801

Re: Request for hearings for House Bills 133 and 134

Dear Chairman Rokeberg:

House Bill 133 (relating to victim restitution) and House Bill 134 (relating to victim rights) have been introduced at the request of the Governor and each has been referred to the Judiciary Committee and Finance Committee. We are writing to request a Judiciary Committee hearing at your earliest convenience.

House Bill 133 proposes the most meaningful change in restitution laws in many years. As you know, the Victims Rights amendment in Art. I, sec. 24, of the Alaska Constitution was enacted overwhelmingly by the voters, and it contains a specific right of crime victims to restitution from offenders. Until now, Alaska law has focused only on setting the amount of restitution, with little attention given to the precise method of collection. This bill provides an effective mechanism for collection of restitution, and is strongly supported by victim advocates statewide.

House Bill 134 introduces a number of measures that will enhance or expand on current rights of crime victims, and contains brand new provisions for recovering stolen property and allowing stalking victims to obtain judicial protective orders. This, too, is strongly supported by victim advocates.

We would be pleased to discuss these topics with you or your staff at any time, and we look forward to working with the Judiciary Committee on these important bills.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:



Dean J. Guaneli  
Chief Assistant Attorney General

DJG:vr

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: HB 134  
(H) Publish Date: 2/19/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
Title "An Act relating to the rights of crime victims, ... BRU Criminal Division  
the crime of violating a protective order or injunction . . ." Component 1st-4th Judicial Districts; Criminal  
Sponsor Rules Committee Appeals/Special Litigation  
Requester Governor Component No. 2198-99;2201/03/61/79

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill makes several amendments related to the protection of crime victims. It makes the violation of a protective injunction a class A misdemeanor. Like protective orders in a domestic violence case, protective injunctions may be ordered by the court to prevent or limit a person's contact with a child if it is established that the person has sexually or physically abused the child, or engages in conduct that constitutes a clear and present danger to the welfare of the child. While violation of a domestic violence protective order is a class A misdemeanor, under current law the only remedy for violations of a protective injunction is a finding of contempt by the court.

The bill also would clarify the means by which a victim can petition for the return of their property seized by law enforcement from a pawnbroker or second hand dealer; and broadens prohibitions against "compromising misdemeanors" (paying a victim's expenses in return for criminal charges being dropped) to include domestic violence as defined in current law. The bill also adds a new

Prepared by: Joan M. Kasson Phone 465-5370  
Division Attorney General's Office Date/Time 1/11/01 3:15 PM  
Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 1/11/01  
Agency Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

ANALYSIS CONTINUATION

mitigating factor for presumptive sentences when a defendant pleads guilty or no contest within 30 days of arraignment on a charge. Finally, the bill adopts a simple procedure for victims of stalking that is not domestic violence to obtain protection, similar to the procedure for a domestic violence protective order. The procedure would not require a filing fee or sophisticated knowledge of the legal system. Instead, the clerk of court would provide simple forms for requesting protection and assistance in completing them. Violation of certain provisions of the protective order would be a class A misdemeanor.

Any potential fiscal impact of the bill on the Department of Law would come from the creation of the new class A misdemeanor for violating a protective injunction in both CINA and stalking cases. The department expects to see only a handful of new cases arising from these provisions each year, and anticipates any increased workload can be handled with existing resources.

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: HB 134  
(H) Publish Date: 2/19/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
Title: An Act relating to the rights of crime victims, the BRU: 271  
crime of violating a protective injunction, mitigating factors..... Component: All  
Sponsor: Rules Committee  
Requester: Governor Component Number: 694

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

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

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

Estimate of any current year (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)

The Department of Corrections is submitting an indeterminate fiscal note for this legislation. This legislation will provide criminal consequences for a person who violates a protective injunction in child in need of aid proceedings.

Information provided by the Dept. of Law suggests approximately 12 offenders per year will be convicted. It is difficult to determine the length of sentence the Court will assign to these offenders. It presumably will be less than the mandatory minimum sentence of 20 days for an Assault IV in conjunction with the violation of a domestic violence restraining order.

Prepared by: Candace Brower Phone 465-4652  
Division: Commissioner's Office Date/Time 02/16/01 2:45 p.m.  
Approved by: Margaret Pugh Date 2/16/01  
Agency: Dept. of Corrections

For distribution information, call the Governor's Legislative Office

COMMITTEE COPY

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: HB 134  
 (H) Publish Date: 2/19/01  
 Dept. Affected: Administration  
 BRU: Legal and Advocacy  
 Component: Public Defender  
 Component Number: 1631

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: An Act Relating to the rights of crime victims  
 Sponsor: Rules Committee  
 Requester: Governor

### Expenditures/Revenues

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

<b>CAPITAL EXPENDITURES</b>	*	*	*	*	*	*
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<b>CHANGE IN REVENUES ( )</b>						
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FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts	*	*	*	*	*	*
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2001) cost: 0.0

### POSITIONS

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 The Public Defender Agency is concerned about the impact of the provisions of the bill creating Non-domestic Violence Stalking Protective Orders. Violations of these Orders would be class A misdemeanors. The Alaska stalking statutes (AS 11.41.260-.270) are among the most broadly-written in the nation. See Petersen v. State, 930 P.2d 414 (Alaska App. 1996). Stalking can be charged whenever a person knowingly engages in a course of "non-consensual contact" that places another person in fear. "Non-consensual contact" includes things like approaching a person in a public place, contacting someone by telephone, or sending a person mail.  
 Potentially, thousands of people could obtain these Non-domestic Violence Stalking Protective Orders. Violators could be charged with class A misdemeanors offenses. The Public Defender Agency would be assigned in at least 75% of these cases. Although we cannot say specifically what the impact would be, we are very concerned that there could be a significant fiscal impact resulting from this legislation.

Prepared by: Barbara Brink, Director Phone 334-4414  
 Division: Public Defender Agency Date/Time 2/6/01 12:00 AM  
 Approved by: Jim Duncan, Commissioner Date 2/6/01  
 Agency: Department of Administration

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TONY KNOWLES  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

HB 134  
P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

February 16, 2001

The Honorable Brian Porter  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Porter:

The Victims' Rights Amendment to the Alaska Constitution was approved by 87 percent of Alaska voters and has been in effect since December 30, 1994. Since then, we have continued to learn more about the difficulties crime victims face and how we may be able to assist them through changes within the legal system. This bill I am transmitting today proposes several measures to further protect victims and help them deal with the problems they encounter. Each proposal is described in further detail below.

- Allowing a mitigated presumptive sentence for speedy no contest or guilty pleas;
- Simplifying procedures for victims to recover stolen property;
- Establishing a crime for violating protective injunctions in child in need of aid cases;
- Extending current disallowance of civil compromise in some domestic violence cases to all domestic violence cases;
- Simplifying the process for stalking victims to get protection orders;
- Establishing that a protective order violation could cause at least a contempt of court charge and fine;
- Requiring officials working with custody disputes be trained in domestic violence law.

Mitigated Presumptive Sentences. The bill allows the court to mitigate a presumptive sentence when the defendant pleads no contest or guilty within 30 days after being charged. The reasoning is that early admission on the part of the defendant relieves the

HB 134

The Honorable Brian Porter  
February 16, 2001  
Page 2

victim of some of the suffering involved in long, drawn out court procedures. This concept has already been recognized by the courts as a non-statutory mitigating factor. State v. McKinney, 946 P.2d 456 (Alaska 1997).

Recovering Stolen Property. The bill establishes a simplified procedure for theft victims to recover property that is in the possession of a law enforcement agency after having been recovered from a pawnshop or secondhand dealer. The current process is based on federal procedure and requires the victim to initiate formal legal proceedings to recover property. Under this less formal procedure, the victim could file a petition in state court supported by affidavit of ownership. The pawnshop or secondhand dealer can file a response supported by affidavit. Ownership may then be decided based on the information in the affidavits.

Protective Injunction Violations. Alaska law authorizes the court to issue a protective injunction in child in need of aid (CINA) proceedings that orders perpetrators to stay away from a child. These are similar to protective orders in domestic violence cases. Unlike domestic violence protective orders, however, it is not a separate crime to violate a protective injunction for a child in a CINA proceeding. The bill corrects this unjust inconsistency by making it a class A misdemeanor for a perpetrator to violate the CINA injunction.

Civil Compromise in Domestic Violence Cases. Alaska allows a person charged with a misdemeanor that harms a person or property to enter into a civil compromise by agreeing to pay the victim for personal costs, such as medical expenses or property damage. If the victim appears in court and acknowledges in writing that the defendant has paid the damages, the court may dismiss the charges, even if the prosecution objects to the dismissal. There are several exceptions in the statute allowing for civil compromise. One of the exceptions disallows compromise of cases between spouses and former spouses, or persons living together in a family or spousal relationship. The exception does not, however, include all domestic violence crimes. For example, it does not include domestic violence by a person who lived with another person if the court determines that the relationship was not a spousal relationship. This bill extends the disallowance of civil compromise to all cases involving domestic violence as defined in the Domestic Violence Prevention and Victim Protection Act of 1996. Civil compromise is not appropriate in domestic violence cases. This bill ensures that it will not occur.

Protection From Stalking. Stalking is a crime that may be unconnected to domestic violence yet also warrants protection for the victim. These stalking victims are often children and their families. The current procedure for obtaining protection in these types

HB 134

The Honorable Brian Porter  
February 16, 2001  
Page 3

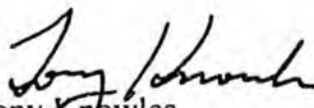
of stalking cases requires a filing fee and, usually, an attorney to handle the complicated paperwork. Victims may not have the resources for this effort and therefore go unprotected. This bill establishes a procedure similar to that for a domestic violence protective order, a simple process with no filing fee or need for sophisticated knowledge of the legal system. The clerk of court would provide forms for requesting protection and assistance in completing them. Violation of certain provisions of a stalking protective order of this type would be a class A misdemeanor.

Protective Order Violations. Currently, not all violations of a protective order result in consequences to the offender. Typically, the more dangerous violations carry a criminal charge; others may have no direct consequence. This bill establishes that a person who violates any provision of a protective order may, at a minimum be held in contempt of court.

Domestic Violence Training. It's important that anyone officially involved in custody disputes, such as guardians ad litem, child custody investigators, and mediators, be trained in domestic violence laws. These persons need to understand statutory provisions that prohibit mediation in domestic violence cases and that require consideration of evidence of domestic violence in custody determinations.

Victim protection is a priority of all Alaskans. I urge your prompt and favorable consideration of this bill.

Sincerely,

  
Tony Knowles  
Governor

HB 134

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

BILL NO. HB134

Revision Date/Time (Note if correction)	Dept. Affected
Title <u>An act relating to the rights of crime victims</u>	BRU <u>Alaska Court System</u>
Sponsor <u>House Rules by Request of the Governor</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	12.3	0.0	0.0	0.0	0.0	0.0
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>12.3</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF	12.3	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>12.3</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

House Bill 134 makes several changes to the laws relating to crime victims. The two sections most likely to impact the court system are those relating to the return of property seized from a pawnbroker or secondhand dealer and to Non-domestic Violence Protective Orders. This note is limited to the one-time costs associated with the court system's forms committee meeting and developing the forms, procedures, and instructions for clerks that both of these sections will require.

This note does not reflect any additional costs associated with the increased workload that will result from these new protective proceedings. Although our stalking statutes are broad and could potentially result in a significant number of petitions being filed, at this time the number of such cases is too speculative to support a fiscal note. However, should this bill result in a significant number of petitions the court system may return to the legislature for additional funding.

Prepared by: <u>Douglas Wooliver, Administrative Attorney</u>	Phone: <u>463-4750</u>
Division: <u>Alaska Court System</u>	Date/Time: <u>4/11/01 10:16 AM</u>
Approved by: <u>Stephanie J. Cole, Administrative Director</u>	Date: _____
Agency: <u>Alaska Court System</u>	

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**Unalaskans Against Sexual Assault & Family Violence**

Box 36, Unalaska, AK 99685 • Office: 581-1500 • Crisis Line Call: 711

April 19, 2001

APR 19 2001

Representative Norman Rokeberg  
House Judiciary Committee  
State Capital, Room 118  
Juneau, AK 99801 -1182

Dear Representative Rokeberg,

I am writing to urge to hold a hearing and take action on HB 134, the bill regarding stalking that is not related to domestic violence. This is a very important bill.

HB 134 would provide a protective order process for victims being stalked by strangers or others with whom they have no relationship, for example. This will go far in ensuring the safety of people who would not qualify for a domestic violence restraining order, but who are, nevertheless, being stalked and harassed by someone. It will also help to hold accountable those who stalk and harass, and sends a message that this type of behavior is unacceptable.

HB 134 also requires that guardian ad litem and child custody investigators receive training in domestic violence from a CDVSA approved domestic violence program. This training is crucial so that people who make recommendations about custody and visitation have an understanding about the dynamics and lethality of domestic violence situations.

Lastly, HB 134 would make "lesser" violations of protective orders, such as making a single phone call, a crime of contempt, so that the prosecutor can take some action to hold the violator accountable.

Please remember these important elements of HB 134. I hope that you can hold a hearing and that some action will be taken on this bill soon.

Thank you very much.

Sincerely,

M. Lynn Crane, Director, Unalaskans Against Sexual Assault &amp; Family Violence



# Public Opinion Message

Valdez Legislative Information Office (LIO)  
PO Box 1999 • Valdez, AK 99686 • Phone: 835-2111 Fax: 835-2087

This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

**From:** Please PRINT the information below. This form must be signed by the sender.

Mr. / Ms. / Mrs. <i>MRS</i>	First name <i>Catherine</i>	M.I.	Last name <i>Varva</i>	J. / B. / D.
Group affiliation (if applicable) <i>ANDUSA - AVV</i>				Daytime telephone number
Mailing address <i>PO Box 524 Valdez AK</i>			Zip code <i>99686</i>	
Residence (street) address if different from mailing address <i>551 Wardside St Valdez AK</i>			Zip code <i>99686</i>	
E-mail address			Signature <i>Catherine Varva</i>	Date <i>4-19-01</i>

**To:** Put a  in the appropriate box(es).

Committees		House members		Senate members	
<input type="checkbox"/> H or S	Community & Regional Affairs (cra)	<input type="checkbox"/> Berkowitz (ber)	<input type="checkbox"/> Kertula (ker)	<input type="checkbox"/> Austerman (aue)	
<input type="checkbox"/>	Finance (fin)	<input type="checkbox"/> Bunde (bun)	<input type="checkbox"/> Kohring (koh)	<input type="checkbox"/> Cowdry (cow)	
<input type="checkbox"/>	Health, Ed. & Social Services (hes)	<input type="checkbox"/> Chensaut (che)	<input type="checkbox"/> Kookesh (koo)	<input type="checkbox"/> Davis (dav)	
<input checked="" type="checkbox"/>	Judiciary (jud)	<input type="checkbox"/> Cleans (cle)	<input type="checkbox"/> Kolt (kol)	<input type="checkbox"/> Donley (don)	
<input type="checkbox"/>	Labor & Commerce (l&c)	<input type="checkbox"/> Coghli (cog)	<input type="checkbox"/> Lancaster (lan)	<input type="checkbox"/> Ellis (eli)	
<input type="checkbox"/>	Resources (res)	<input type="checkbox"/> Crawford (cra)	<input type="checkbox"/> Mesak (mes)	<input type="checkbox"/> Eton (eto)	
<input type="checkbox"/>	Rules (ru)	<input type="checkbox"/> Croft (cro)	<input type="checkbox"/> McGuire (mcg)	<input type="checkbox"/> Green (gre)	
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<input type="checkbox"/>	Transportation (tra)	<input type="checkbox"/> Dyson (dys)	<input type="checkbox"/> Morgan (mor)	<input type="checkbox"/> Hoffman (hof)	
<input type="checkbox"/>	Other:	<input type="checkbox"/> Felo (fel)	<input type="checkbox"/> Moses (mos)	<input type="checkbox"/> Kelly (kep)	
<input type="checkbox"/>	Other:	<input type="checkbox"/> Foster (fos)	<input type="checkbox"/> Musser (mus)	<input type="checkbox"/> Lerman (ler)	
		<input type="checkbox"/> Green (grn)	<input type="checkbox"/> Munkowski (mun)	<input type="checkbox"/> Lincoln (lin)	
		<input type="checkbox"/> Gueso (gus)	<input type="checkbox"/> Ogan (oga)	<input type="checkbox"/> Olson (ols)	
		<input type="checkbox"/> Halcro (hal)	<input type="checkbox"/> Porter (por)	<input type="checkbox"/> Pearce (par)	
		<input type="checkbox"/> Harris (har)	<input checked="" type="checkbox"/> Rokberg (rok)	<input type="checkbox"/> Phillip (phi)	
		<input type="checkbox"/> Hayes (hay)	<input type="checkbox"/> Scatz (sca)	<input type="checkbox"/> Taylor (tay)	
		<input type="checkbox"/> Hudson (hud)	<input type="checkbox"/> Stevens (ste)	<input type="checkbox"/> Thersault (thr)	
		<input type="checkbox"/> James (jam)	<input type="checkbox"/> Whitaker (whi)	<input type="checkbox"/> Torgerson (tor)	
		<input type="checkbox"/> Jule (jul)	<input type="checkbox"/> Williams (wil)	<input type="checkbox"/> Ward (war)	
		<input type="checkbox"/> Kessner (kep)	<input type="checkbox"/> Wilson (wil)	<input type="checkbox"/> Wilson (wil)	

**Subject:** Fill out the boxes below OR enter a Subject.

HB or SB <i>HB</i>	Bill number <i>134</i>	and check one:	<input checked="" type="checkbox"/> Support	<input type="checkbox"/> Oppose	<input type="checkbox"/> Amend	OR enter a general Subject (LIO staff may modify):
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**Message:** Your PRINTED message cannot exceed 50 words or contain any vulgar language.

<i>Please</i>	<i>support</i>	<i>HB 134</i>	<i>It is</i>	<i>important</i>	5
<i>for</i>	<i>so many</i>	<i>reason.</i>	<i>How can</i>	<i>Guardian</i>	10
<i>at item's</i>	<i>or child</i>	<i>investigator's</i>	<i>make</i>	<i>undified</i>	15
<i>recommendations</i>	<i>about</i>	<i>children's</i>	<i>level</i>	<i>with out</i>	20
<i>understanding</i>	<i>issues</i>	<i>such as</i>	<i>domestic</i>	<i>violence?</i>	25
<i>This bill</i>	<i>also</i>	<i>recognize</i>	<i>that</i>	<i>stalking</i>	30
<i>by a</i>	<i>stranger</i>	<i>can be</i>	<i>as dangerous</i>	<i>as</i>	35
<i>stalking</i>	<i>by one</i>	<i>acquaintance.</i>	<i>Domestic</i>	<i>violence</i>	40
<i>remains</i>	<i>the</i>	<i>number</i>	<i>one reason</i>	<i>for</i>	45
<i>injuries to</i>	<i>women and</i>	<i>injuries</i>	<i>of child</i>	<i>abuse.</i>	50

# Public Opinion Message

Valdez Legislative Information Office (LIO)  
PO Box 1050 • Valdez, AK 99686 • Phone: 835-2111 Fax: 885-2097

This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

**From:** Please PRINT the information below. This form must be signed by the sender.

Mr. / Ms. / Mrs. <i>MRS</i>	First Name <i>Melissa</i>	Age <i>35</i>	Last Name <i>Bowden</i>	J. / Sr. / M.
Group / School / Employer <i>ANDRISA - AVY</i>				Deputy telephone number
Home Address <i>PO Box 5241 Valdez AK</i>				Zip code <i>99686</i>
Residence (Street) (Town) (State) (Zip) (Phone) <i>527 Woodside ST Valdez AK</i>				Telephone <i>49686</i>
Local address				Date <i>4/19/01</i>

**To:** Put a ✓ in the appropriate box(es).

	Committees	House members	Senate members
<b>H or S</b>			
<input type="checkbox"/>	Community & Regional Affairs (cra)	<input type="checkbox"/> Bortowicz (ber)	<input type="checkbox"/> Austerman (aust)
<input type="checkbox"/>	Finance (fin)	<input type="checkbox"/> Sundt (sun)	<input type="checkbox"/> Cowley (cow)
<input type="checkbox"/>	Health, Ed., & Social Services (hes)	<input type="checkbox"/> Cheneart (che)	<input type="checkbox"/> Davis (dav)
<input checked="" type="checkbox"/>	Judiciary (jud)	<input type="checkbox"/> Clovis (clo)	<input type="checkbox"/> Donley (don)
<input type="checkbox"/>	Labor & Commerce (l&c)	<input type="checkbox"/> Coghill (cog)	<input type="checkbox"/> Ellis (ell)
<input type="checkbox"/>	Resources (res)	<input type="checkbox"/> Crawford (cra)	<input type="checkbox"/> Eton (etn)
<input type="checkbox"/>	Rules (rul)	<input type="checkbox"/> Craft (cra)	<input type="checkbox"/> Green (gre)
<input type="checkbox"/>	State Affairs (sta)	<input type="checkbox"/> Davise (dav)	<input type="checkbox"/> Halford (hal)
<input type="checkbox"/>	Transportation (tra)	<input type="checkbox"/> Dyson (dys)	<input type="checkbox"/> Hoffman (hof)
<input type="checkbox"/>	Other:	<input type="checkbox"/> Felt (fel)	<input type="checkbox"/> Koly (koly)
<input type="checkbox"/>	Other:	<input type="checkbox"/> Foster (fos)	<input type="checkbox"/> Leman (lem)
		<input type="checkbox"/> Gagan (gag)	<input type="checkbox"/> Lincoln (lin)
		<input type="checkbox"/> Guess (gue)	<input type="checkbox"/> Olson (ols)
		<input type="checkbox"/> Halcro (hal)	<input type="checkbox"/> Pearce (pear)
		<input type="checkbox"/> Harris (har)	<input type="checkbox"/> Philip (phi)
		<input type="checkbox"/> Hayes (hay)	<input type="checkbox"/> Taylor (tay)
		<input type="checkbox"/> Hudson (hud)	<input type="checkbox"/> Theriault (tht)
		<input type="checkbox"/> James (jam)	<input type="checkbox"/> Torgerson (tor)
		<input type="checkbox"/> Joule (jou)	<input type="checkbox"/> Ward (war)
		<input type="checkbox"/> Kapner (kap)	<input type="checkbox"/> Wilson (wil)
		<input type="checkbox"/> Kerube (ker)	
		<input type="checkbox"/> Kohring (kon)	
		<input type="checkbox"/> Kookash (koo)	
		<input type="checkbox"/> Kof (kof)	
		<input type="checkbox"/> Lancaster (lnc)	
		<input type="checkbox"/> Masok (mas)	
		<input type="checkbox"/> McGuire (mcg)	
		<input type="checkbox"/> Meyer (mey)	
		<input type="checkbox"/> Morgan (mor)	
		<input type="checkbox"/> Moses (mos)	
		<input type="checkbox"/> Muder (mud)	
		<input type="checkbox"/> Munro (mun)	
		<input type="checkbox"/> Ogan (oga)	
		<input type="checkbox"/> Porter (por)	
		<input checked="" type="checkbox"/> Rokberg (roc)	
		<input type="checkbox"/> Scuzi (sci)	
		<input type="checkbox"/> Stevens (stv)	
		<input type="checkbox"/> Whitaker (whi)	
		<input type="checkbox"/> Williams (wil)	
		<input type="checkbox"/> Wilson (wils)	

**Subject:** Fill out the boxes below OR enter a Subject.

HB or SB <i>HB</i>	Bill number <i>134</i>	and check one:	<input checked="" type="checkbox"/> Support	<input type="checkbox"/> Oppose	<input type="checkbox"/> Amend	<input type="checkbox"/> OR enter a general Subject (LIO staff may modify):
-----------------------	---------------------------	----------------	---	---------------------------------	--------------------------------	---

**Message:** Your PRINTED message cannot exceed 50 words or contain any vulgar language.

We need	your	support	for HB 134.	Guardians
at whom	and	child	investigations	need
information	and	training	in	order
to	understand	and	make	informed
decisions	about	children's	lives;	Also,
victims	being	stalked	need	to
be	able	to	get	Protective
orders	against	the	perpetrators	equally
if	this	is a	stranger	DV is
the	number 1	reason	for injuries	to women.



## Safe and Fear-Free Environment, Inc.

Post Office Box 94 Dillingham, Alaska 99576  
 Office: (907) 842-2320 Fax: (907) 842-2198  
 24 Hour Toll Free Crisis Line: 1-800-478-2316

### SERVICES PROVIDED

Safe Shelter  
 Crisis Intervention  
 Emergency Transportation  
 24 Hour Crisis Line  
 Advocacy & Support  
 Children Services  
 Medical & Court Accompaniment  
 Information & Referral  
 Legal Advocacy  
 Community Education & Awareness  
 Presentations & Training  
 Domestic Violence  
 Sexual Assault  
 Child Abuse  
 Sexual Harassment  
 Elder Abuse  
 Parenting  
 Conflict Resolution  
 Workplace Safety

19 April 2001

Representative Rokeberg, Chair  
 House Judiciary Committee  
 P.O. Box V  
 Juneau, Alaska 99811

APR 19 2001

Dear Chairman Rokeberg and Members,

I am writing to express my support for HB 133 and HB 134 and to ask for your positive vote in moving the bills from Committee.

HB 133 reflects the recommendations of the Victim Rights Roundtable group that met in Anchorage last fall. As a crime victim's advocate, I was privileged to be a part of that group and able to bring the collective voice of the people I serve to that table. I was privy to the discussions that took place on a whole range of victims rights issues and it was unanimously agreed that correcting the restitution problem was a number one priority. Restitution alone won't make crime victims whole again, but it helps to re-empower victims and can go a long way toward the healing process and holding perpetrators accountable for the wrong they do.

I understand that HB 133 is scheduled for a hearing before the full Committee on Friday, April 20. On behalf of the people I work for and for my own family members who have been victims of crime, I ask that you vote positively to move the bill on to the next committee of referral.

HB 134 is another measure addressing crime victim's rights that is currently in the House Judiciary Committee. There are three key elements in HB 134 that are critical to victims. The first provides a protective order process for persons who are being stalked by a stranger or someone with whom they do not have an intimate or family relationship. Stalking is a terrifying crime that happens way too often in Alaska. And if you or someone you love is targeted by a stranger, you have little recourse for protection. HB 134 would enhance the safety of victims and the resources for protection available to them.

A second provision in HB 134 would require guardian ad litem's and child custody investigators to be trained in domestic violence issues. It's a bit shocking to think that the law doesn't already require this and that these people may have been out there making life shaping decisions and recommendations without basic training in family violence issues.

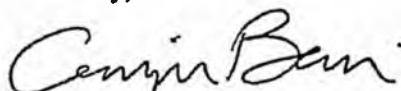
*"Serving all  
 of  
 Bristol Bay  
 Since  
 1982"*

A third provision in HB 134 has direct impact of victims of domestic violence by permitting court actions in response to "lesser" violations of protective orders. Under current law, the court and police are limited in responding to a petitioner who sends his partner a letter or makes a single phone contact in violation of the "no contact" provisions of a protective order. Taken one at a time, these minor violations don't seem to be a problem, but for a victim of domestic violence they can have a devastating impact as they are part of the pattern of abusive and coercive behavior that defines intimate partner violence.

HB 134 would put some teeth in the law that would help protect victims of crime. I ask that you schedule the measure for hearing as soon as possible and move it out of committee with your positive vote.

Thank you for giving me an opportunity to comment on these measures. And thank you all for the hard work you do and the even harder work that lays before you in these closing weeks of the Legislative Session.

Sincerely,



Ginger Baim, Executive Director  
Safe and Fear-Free Environment, Inc.

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

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

January 31, 2002

Representative Pete Kott  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Kott:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing House Bill 134 (22-GH1062\A) relating to the rights of victims, violations of protective injunctions, and protective relief for stalking victims that is not domestic violence, to the House Rules Committee at the request of Governor Knowles.

The APOA State Board of Directors recently met and after discussing proposed legislation, decided to unanimously support this bill.

We believe that this comprehensive legislation further defines the rights of victims of crimes and sets out additional boundaries and expectations for recipients of court-ordered injunctive relief orders. Additionally, we believe this legislation introduces new and necessary laws that would enable a victim of a non-domestic stalking situation to seek temporary relief with a protective order.

Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

**COPY**

Leo Brandlen  
State President

cc: Gov. Tony Knowles  
House Finance Co-Chairs, Reps. Eldon Mulder and Bill Williams  
House Judiciary Chair, Rep. Norman Rokeberg

**Business Manager**

Joseph Young  
Anchorage

**Board of Directors**

Leo Brandlen, President  
Anchorage

Chuck Kopp, Vice President  
Kenai

Michael Corkill, Past President  
Mesa, AZ

Kim Wannamaker, Member  
Kenai  
Pres. Kenai Chapter

Terry Games, Member  
Anchorage  
Pres. Anchorage Chapter

Angella Long, Member  
Wasilla  
Pres. Mat-Su Chapter

Lonnie Halman, Member  
Fairbanks  
Pres. Fairbanks North Chapter

Jerry Nankervis, Member  
Juneau  
Pres. Capital City Chapter

Andrea Jacobson, Member  
Ketchikan  
Pres. First City Chapter

James See, Member  
Craig  
Pres. Ponce de Wates Chapter

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

Thecla LaLonde, Member  
Wrangell  
Pres. Wrangell Chapter

## **Legislative Action Alert!**

Governor Knowles proposed victims rights legislation to make the justice system work for victims rather than forcing victims to work the system. None of these bills have received legislative hearings to date!

Victims repeatedly say that being able to collect court-ordered restitution from their offenders would be one of the greatest benefits to their healing process. Yet our current system places the burden of restitution collection on the victims, just adding to their pain and trauma. To fix this unjust situation, Governor Knowles introduced:

### **SB 107 and HB 133 - Victim Restitution Collection:**

- Makes sure victims receive their court-ordered restitution by creating a collection service in the Department of Law -- taking the burden of collecting offender restitution payments off the shoulders of victims.
- Allows the Department of Law to collect Permanent Fund Dividends, wages, and other offender assets to help pay court-ordered restitution to victims.
- Funds \$300,000 to the Department of Law to cover the cost of setting up the collection program which is expected to help over 5,000 victims annually in the state receive their restitution payments.

*Status of bills-SB 107 is in the Senate Judiciary Committee and HB 133 is in the House Judiciary Committee. Neither bill has received a hearing.*

Governor Knowles has led several efforts during his tenure in office to enhance protections for victims. More work is needed in several areas such as improving access to protective orders, putting some teeth into those orders, and helping victims recover stolen property. To address these issues, Governor Knowles introduced:

### **SB 106 and HB 134 - Victims Protection Package:**

- Simplifies procedures for victims to recover stolen property.
- Simplifies the process for stalking victims to get protection orders.
- Establishes a crime for violating protective injunctions in child of need of aid cases.
- Establishes that a protective order violation could be at least a contempt of court.
- Extends current disallowance of civil compromise in some domestic violence cases to all domestic violence cases.
- Offers an opportunity for speedier trials by allowing mitigated presumptive sentences for timely guilty or no contest pleas.
- Requires officials working with custody disputes to be trained in domestic violence law.

*Status of bills-SB 106 is in the Senate Judiciary committee and HB 134 is in the House Judiciary committee. Neither bill has received a hearing.*

### **Budget Request**

The Governor requested \$250,000 to fund victim services. This would create a victim services coordinator in the Department of Health and Social Services to work with probation offices and youth facilities statewide to help them design and expand their victim service programs. It also continues funding the victim and witness notification program in the Department of Law.

**Contact the members of the House and Senate Judiciary Committees and your elected representatives, urging them to hear these bills as soon as possible!**

**HB**

**135**



22-LS0421\P  
Cook  
4/11/01

Adopted

CS FOR HOUSE BILL NO. 135( )

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

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES GUESS, Meyer

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal fees for certain police protection services."

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

3 \* Section 1. AS 29.10.200 is amended by adding a new paragraph to read:

4 (60) AS 29.35.125 (fees for police protection services).

5 \* Sec. 2. AS 29.35 is amended by adding a new section to read:

6 Sec. 29.35.125. Fees for police protection services. (a) A municipality may  
7 by ordinance impose a fee on the owner of residential real property if a member of the  
8 municipal police department goes to the property an excessive number of times during  
9 a calendar year in response to a call for assistance, a complaint, an emergency, or a  
10 potential emergency. The number of responses considered to be excessive and the  
11 amount of the fee shall be set out in the ordinance that establishes the fee. A fee may  
12 not be imposed under this subsection for responses to calls that involve potential  
13 domestic violence, as defined in AS 18.66.990, or potential stalking under  
14 AS 11.41.260 or 11.41.270. An ordinance enacted under this section shall require  
15 actual notice to the property owner of police contacts and a warning that failure to take

*to owners of residential property*  
*Conceptual #1*  
*allow the defense*  
*noted to qualify*  
*allowed to prevent*  
*property insurance*  
*add statutory references*

*Conceptual #1*  
*including a family*  
*multi-unit dwellings*  
*over 4 units*

*must include a notice to quit*

1  
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appropriate corrective action may result in the imposition of a fee. The ordinance must also define "appropriate corrective action" and provide that the property owner is not liable for the fee if that action is promptly taken.

(b) A municipality may provide that a fee imposed under (a) of this section is a lien on the property to which the municipal police have been called an excessive number of times and may provide for the recording and notice of the lien. When recorded, a lien under this subsection has priority over all other liens except

(1) liens for property taxes, special assessments, and sales and use taxes;

(2) liens that were perfected before the recording of the lien under this subsection; and

(3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien under this subsection.

(c) This section applies to home rule and general law municipalities.

22-LS0421\O  
Cook  
4/10/01

*There was  
a newer  
CS "P"*

**CS FOR HOUSE BILL NO. 135( )**

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

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES GUESS, Meyer**

**A BILL**

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6 number of times and may provide for the recording and notice of the lien. When  
7 recorded, a lien under this subsection has priority over all other liens except

8 (1) liens for property taxes, special assessments, and sales and use  
9 taxes;

10 (2) liens that were perfected before the recording of the lien under this  
11 subsection for amounts actually advanced before the recording of the lien under this  
12 subsection; and

13 (3) mechanics' and materialmen's liens for which claims of lien under  
14 AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded  
15 before the recording of the lien under this subsection.

16 (c) This section applies to home rule and general law municipalities.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE GRETCHEN GUESS

## Sponsor Statement HB 135

*" An Act relating to municipal fees for certain police protection services. "*

Within many of our communities, nuisance residential properties exist and cause continued disturbances to neighbors and neighborhoods. This bill strengthens local control to hold the owners of these properties accountable.

HB 135 grants municipalities the ability to impose a fee on the owner of residential property if the police department responds to the property an excessive number of times. The fee is granted lien status against the nuisance property. The state will not define "excessive" nor mandate a municipality to create such a fee system; it only allows municipalities to create such a system if they choose. Domestic violence calls, as defined under AS 18.66.990, have been exempted so as not to discourage a resident domestic violence victim from calling for help.

HB 135 makes several provisions to ensure cooperative landlords are not punished. It requires landlords be given "actual notice" of police contacts and a warning that failure to take appropriate corrective action may result in the imposition of a fee. It also requires the ordinance to define "appropriate corrective action" and to provide the property owner is not liable for the fee if corrective action is promptly taken. These provisions will hold harmless the responsible property owners in our communities who work in good faith to remedy the problem.

The intent of HB 135 is to provide stronger local control to hold uncooperative property owners accountable for their impact on neighborhoods. These chronically problematic properties not only impact a neighborhood's peace and calm but also directly cost municipalities in excessive police visits.

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 135(CRA)  
 (H) Publish Date: 3/22/01

Revision Date/Time (Note if correction): 03/14/2001 5:30p.m. Dept. Affected: DCED  
 Title: Act related to municipal fees for police BRU: Comm.Asst & Econ. Dev.  
protection services. Component: Community & Business  
 Sponsor: Representative Guess Development  
 Requester: House Community & Regional Affairs Component Number: 2486

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 have no fiscal impact on this department.

Prepared by: Pat Poland, Director Phone 907-269-4580  
 Division Division Community and Business Development Date/Time 03/14/2001 5:30p.m.  
 Approved by: Commissioner Deborah B. Sedwick Date 03/14/01  
 Agency Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

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POOR  
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COPIES

**II. NONSUPPORT.**

**Contempt for nonsupport has criminal aspects.** — Although contempt for nonsupport has traditionally been characterized as a civil action, certain aspects of that action, in particular, the threat of incarceration, more closely approximate penal proceedings. *Otton v. Zaborac*, 525 P.2d 537 (Alaska 1974).

**Right to attorney.** — Indigent in a contempt for nonsupport proceeding has a right to a court-appointed attorney. *Otton v. Zaborac*, 525 P.2d 537 (Alaska 1974).

**The burden of proof of inability to comply with the court order, which is the central issue in contempt proceedings for nonpayment of child support, is with the defendant.** *Otton v. Zaborac*, 525 P.2d 537 (Alaska 1974).

**Ability to comply with support order.** — The principal question in civil contempt proceedings involving child support orders is not whether the defendant once had the ability to comply with the support order but whether he presently has the ability to

comply. *Ryfeul v. Ryfeul*, 650 P.2d 369 (Alaska 1982).

**Motion for a directed verdict finding husband in contempt for failure to pay alimony and support pursuant to divorce decree was improperly granted where there was substantial evidence that the husband was in bad financial straits and fair minded jurors could have reached different conclusions on the issue of his ability to pay.** *Ryfeul v. Ryfeul*, 650 P.2d 369 (Alaska 1982).

**Discussion of sentencing procedures in nonsupport cases.** — See notes to AS 09.50.010. *Diggs v. Diggs*, 663 P.2d 950 (Alaska 1983).

**Nonsupport order vacated.** — Superior court's order requiring defendant in nonsupport proceeding to serve 90 days with 45 days suspended on certain conditions was vacated since the court did not announce at the outset of the proceeding that it intended to impose a criminal sanction if the defendant was found guilty of contempt and the preponderance of the evidence burdens of proof were used by the superior court in its instructions to the jury rather than the criminal standard of beyond a reasonable doubt. *Diggs v. Diggs*, 663 P.2d 950 (Alaska 1983).

**Sec. 09.50.060. Prosecution on nonappearance.** If the defendant does not appear on the day ordered by the court, the court may order the undertaking to be prosecuted. If the undertaking is prosecuted, the measure of damages is the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the warrant was issued and the costs of the proceeding. (§ 10.06 ch 101 SLA 1962)

*Secs. 09.50.070, 09.50.080. Property subject to escheat, enforcement of rights by state. [Repealed, § 14 ch 133 SLA 1986.]*

*Sec. 09.50.090. Transmittal of personal property to state. [Repealed, § 5 ch 78 SLA 1972.]*

*Secs. 09.50.100 — 09.50.160. Escheat actions, claims, and reports. [Repealed, § 14 ch 133 SLA 1986.]*

**Article 2. Abatement of Illegal Uses of Premises.**

- Section 170. Abatement of places used for certain acts
- 175. Admissibility of evidence to prove nuisance
- 180. Injunction
- 190. Dismissal
- 200. Contempt proceeding

- Section 210. Order of abatement
- 220. Proceeds of sale
- 230. Release of premises to owner
- 240. Fine for contempt as lien on premises

**Cross references.** — For provisions governing nuisances in general, see AS 09.45.230 — 09.45.250.

**NOTES TO DECISIONS**

**Nuisance to exist at time complaint filed.** — This article, specifically AS 09.50.210, requires that a nuisance be shown to exist at the time the complaint is filed rather than at the time of trial. *Spenard Action Comm. v. Lot 3, Block 1, Evergreen Subdivision*, 902 P.2d 766 (Alaska 1995).

**Burden of proof.** — In regard to suits brought under this article, the appropriate burden of proof is clear and convincing evidence. *Spenard Action Comm. v. Lot 3, Block 1, Evergreen Subdivision*, 902 P.2d 766 (Alaska 1995).

~~This is to~~

This is provided to show that HB13.5 is not breaking new ground granting lien status to a municipal fine. Abatement law makes provisions for lien status as shown below:

★

See fourth page → # 639

For "fine for contempt as lien on premises".

For example of lien status already granted under statute

Collateral references. — 24 Am. Jur. 2d, Disorderly Houses, §§ 23-36.  
 28 C.J.S., Nuisances, §§ 45, 77, 102-169.

**Sec. 09.50.170. Abatement of places used for certain acts.** (a) A person who erects, establishes, continues, maintains, uses, owns, or leases a building, structure, or other place used for one of the following activities is guilty of maintaining a nuisance, and the building, structure, or place, or the ground itself in or upon which or in any part of which the activity is conducted, permitted, carried on, continues, or exists, and its furniture, fixtures, and other contents, constitute a nuisance and may be enjoined and abated:

- (1) prostitution;
- (2) an illegal activity involving a place of prostitution; or
- (3) an illegal activity involving
  - (A) alcoholic beverages;
  - (B) a controlled substance;
  - (C) an imitation controlled substance; or
  - (D) gambling or promoting gambling.

(b) In this section, "illegal activity involving alcoholic beverages," "illegal activity involving a controlled substance," "illegal activity involving gambling or promoting gambling," "illegal activity involving an imitation controlled substance," "illegal activity involving a place of prostitution," and "prostitution" have the meanings given in AS 03.360. (§ 20.01 ch 101 SLA 1962; am §§ 8, 9 ch 121 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective September 26, 1994, in present subsection (a) in the introductory language, substituted "one of the following activities" for "the purposes of lewdness,

assignation, or prostitution or any other immoral act," substituted "activity" for "lewdness, assignation, or prostitution," made minor stylistic changes, and added paragraphs (1)-(3); and added subsection (b).

#### NOTES TO DECISIONS

**Bawdyhouse as nuisance.** — A bawdyhouse is a nuisance per se, and it is also a public nuisance. *Ward v. Kelter*, 4 Alaska 447 (1912).

A bawdyhouse is not a "house" within the meaning of the 4th amendment of the United States Constitution. *United States v. Ashworth*, 7 Alaska 64 (1923).

**Legislative intent.** — The intention of the legislature, as disclosed by this article, was to suppress houses of lewdness and prostitution, and to prevent persons from maintaining or conducting such houses, either at the place where they were being maintained or at any other place throughout the judicial division; and to abate the nuisance then existing, by closing up the same for the period of one year. *Territory of Alaska v. House No. 24*, 7 Alaska 611 (1927).

**Injunction against maintaining nuisance and abatement of building.** — From a consideration

of this article, it is apparent that it has a twofold application, namely, a personal injunction against setting up, maintaining, or conducting a nuisance of the character described, the injunction operating in futuro, and the abatement of the building where the prescribed nuisance is being carried on. *Territory of Alaska v. House No. 24*, 7 Alaska 611 (1927).

**Court has no discretion but to issue injunction and order abatement.** — Where the evidence is clear that a house was maintained as a nuisance, there is no discretion in the court under this article but to issue the injunction, and also to order the abatement of the nuisance. *Territory of Alaska v. House No. 24*, 7 Alaska 611 (1927).

**Testimony as to reputation of house.** — Testimony that house had a reputation as a house of prostitution is not sufficient. *United States v. Rex Hotel*, 8 Alaska 21 (1928).

**Sec. 09.50.175. Admissibility of evidence to prove nuisance.** In an action brought under AS 09.50.170(a) to prove the existence of a nuisance, the court may consider

- (1) evidence of reputation within a community;
- (2) evidence derived from records of the courts of the state or of the United States that relate to previous complaints concerning alleged violations of, and to arrests for or convictions of violations of, laws based on activity set out in AS 09.50.170. (§ 10 ch 121 SLA 1994)

**Sec. 09.50.180. Injunction.** When there is reason to believe that a nuisance as defined in AS 09.50.170 — 09.50.240 exists, the attorney general shall, or a citizen, or a home rule municipality if the nuisance is located in the home rule municipality, may, bring an action to perpetually enjoin the nuisance, the person maintaining it, and the owner, lessee, or agent of the building or group upon which the nuisance exists. (§ 20.02 ch 101 SLA 1962; am § 1 ch 99 SLA 1996)

**Cross references.** — For court rule on injunctions generally, see Civ. R. 65. rule municipality if the nuisance is located in the home rule municipality," near the middle of the section.

**Effect of amendments.** — The 1996 amendment, effective September 23, 1996, inserted ", or a home

**NOTES TO DECISIONS**

**Legislative enjoining of nuisance violating criminal statute.** — It is within the authority of the legislature to enlarge the powers of an equity court by empowering it to enjoin the maintenance of a nuisance, although the maintenance thereof may be a violation of a criminal statute. Territory of Alaska v. House No. 24, 7 Alaska 611 (1927).

**Sec. 09.50.190. Dismissal.** If the complaint is filed by a citizen, the action may be dismissed only upon approval of the attorney general and affidavit of the complainant and the complainant's attorney giving the reasons why the suit should be dismissed. The court may refuse to dismiss the suit and may direct the attorney general to prosecute the action. (§ 20.03 ch 101 SLA 1962)

**Sec. 09.50.200. Contempt proceeding.** If an injunction granted under the provisions of AS 09.50.170 — 09.50.240 is violated, the court may summarily try and punish the offender. A party found guilty of contempt under the provisions of AS 09.50.170 — 09.50.240 is punishable by a fine of not more than \$1,000, or by imprisonment for not less than three months nor more than six months, or by both. (§ 20.04 ch 101 SLA 1962)

**Cross references.** — For contempt procedures, see Civ. R. 90.

**Sec. 09.50.210. Order of abatement.** (a) If the court finds and enters judgment that a nuisance exists, the court shall enter an order of abatement. The order of abatement must direct

(1) termination of the lease or rental agreement, if any, on the premises subject to the order of abatement, if the tenant who occupies under the lease or rental agreement has been given notice of the proceedings under AS 09.50.170 — 09.50.240;

(2) the removal from the building or place of the fixtures, furniture, and movable property used in the nuisance and their sale in the manner provided for the sale of chattels under execution;

(3) the closing of the building or place against its use for any purpose for a period of one year unless sooner released.

(b) A person who breaks and enters or uses a building, structure, or other place directed to be closed by an order entered under (a)(3) of this section is guilty of contempt and shall be punished for contempt as provided in AS 09.50.200. (§ 20.05 ch 101 SLA 1962; am § 11 ch 121 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective September 26, 1994, added the subsection and paragraph designations; added paragraph (a)(1); inserted "by an order entered under (a)(3) of this section" in subsection (b); and made minor stylistic changes.

**Sec. 09.50.220. Proceeds of sale.** (a) The proceeds of the sale of the contents shall be applied as follows:

(1) to the payment of fees and costs of the removal and sale;

- (2) to payment of the allowances and costs of closing and keeping closed the buildings and places;
  - (3) to the payment of plaintiff's costs;
  - (4) to the payment of any balance remaining to the owner of the property sold.
- (b) If the proceeds do not fully discharge all the costs, fees, and allowances, the premises may also be sold under execution issued upon the order of the court and the proceeds of the sale applied in like manner. However, the building or realty in which the nuisance is conducted or real estate on which it stands may not be subject to a lien, judgment, or costs unless the owner, or an agent or representative of the owner, has been duly served with process in the action and been given an opportunity to show good faith and to immediately abate the nuisance. (§ 20.06 ch 101 SLA 1962)

**Sec. 09.50.230. Release of premises to owner.** (a) The court may order premises abated under AS 09.50.210 delivered to the owner and cancel the order of abatement if the owner of the premises

- (1) has not been guilty of a contempt in the proceedings;
- (2) appears and pays all costs, fees, and allowances that are a lien on the premises; and
- (3) files a bond with sureties approved by the court in an amount determined by the court to the effect that the owner will abate the nuisance that exists at the building or place and prevent the nuisance from being established within a period of one year thereafter.

(b) The lease of the property does not release it from a judgment, lien, penalty, or liability to which it may be subject by law.

(c) A cancellation of the order of abatement does not affect a termination of a lease or rental agreement made under AS 09.50.210(a)(1). (§ 20.07 ch 101 SLA 1962; am § 12 ch 121 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective September 26, 1994, in subsection (a), added the subsection and paragraph designations, added the introductory language preceding "if," and made related and other minor stylistic changes; in paragraph

(a)(3), substituted "an amount" for "the full value of the property as" and deleted "the court may order the premises to be delivered to the owner and cancel the order of abatement" at the end; added the subsection (b) designation; and added subsection (c).

**Sec. 09.50.240. Fine for contempt as lien on premises.** A fine imposed as punishment for contempt against the owner is a lien upon the premises to the extent of the interest of that person in the premises and is enforceable and collectible by execution issued by the order of the court. (§ 20.08 ch 101 SLA 1962)



### Article 3. Claims Against State.

- Section**  
 250. Actionable claims against the state  
 270. Payment of judgment against the state

- Section**  
 280. Judgment for plaintiff; punitive damages  
 300. Compromise by attorney general

#### NOTES TO DECISIONS

Cited in *University of Alaska v. Geistauts*, 666 P.2d 24 (Alaska 1983).

**Collateral references.** — 72 Am. Jur. 2d, States, Territories, and Dependencies, §§ 87-89, 79-128.  
 81A C.J.S., States, §§ 174, 189, 194-202, 297-313.  
 Applicability of estoppel doctrine against state, 1 ALR2d 344.

Contributory negligence as defense to action by state, 1 ALR2d 827.  
 Tortious breach of contract as within consent by state to suit on contract, 1 ALR2d 864.  
 Denial of recovery for damage to property by negli-

S T A T E   O F F I C E  
**ALASKA PEACE OFFICERS ASSOCIATION**

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



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Pres. Wrangell Chapter

March 16, 2001

Representative Gretchen Guess  
Alaska State Legislature  
State Capitol Building, Room 112  
Juneau, Alaska 99801-1182

Dear Representative Guess,

The Alaska Peace Officers Association (APOA) would like to thank you for introducing HB135 (22-LS042\C) relating to municipal fees for certain police protection services.

The APOA Legislative Advisory Committee has unanimously agreed to endorse HB135 in its current draft format. We believe this will open an avenue for municipalities to collect fees from excessive users of municipal public safety resources.

Please contact us if there is anything we can do to assist you with passage of this bill. You may contact us at the APOA office in Anchorage at 277-0515.

Sincerely,

Leo Brandlen  
President

cc: Representative Kevin Meyer



**CITY OF FAIRBANKS**

*James C. Hayes, Mayor*

800 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701-4683  
OFFICE: 907-459-6793

March 12, 2001

Representative Gretchen Guess  
Alaska State Legislature  
State Capital  
Juneau Alaska 99801-1182

**RE: House Bill 135**

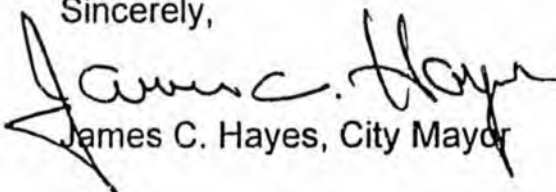
Dear Representative Guess:

Thank you for the opportunity to comment on House Bill 135. This measure would be an effective tool to encourage property owners to take responsibility for the use of their property. It is not uncommon for our police to become quite familiar with excessive criminal activity at a particular location. Currently, our law abiding taxpayers bear the cost of repeated calls for police service at "problem" locations. This bill would adopt the philosophy that "cost causer should be cost payer."

Fairbanks now has an "emergency response charge" in which persons convicted of drunk driving pay the actual cost of their arrest. We have a simple accounting system by which we compute the actual time and charges that are levied. It would be a simple solution for us - or other municipalities - to do the same thing under House Bill 135.

Fairbanks Police Chief Welch has an appointment Thursday, but in his stead Deputy Chief Ray Miller will be available to testify.

Sincerely,

  
James C. Hayes, City Mayor

cc: Community & Regional Affairs Committee Members  
Interior Delegation  
Ray Miller

Passed on 4/27/01

Submitted by: Assemblymembers TESCHE,  
Taylor, Tromaine, Abney, Van Etten, Clementson  
Prepared by: Assembly Office  
For reading: FEBRUARY .27, 2001

ANCHORAGE, ALASKA  
AR NO. 2001- 65

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING HOUSE BILL 135,  
"AN ACT RELATING TO MUNICIPAL FEES FOR CERTAIN POLICE PROTECTION SERVICES."

WHEREAS, certain residential properties are the source of repeat disturbances to the peace, calm, and sometimes even the safety of our community - such as "crack house", places of prostitution, gambling, or other illegal activities; and

WHEREAS, property owners are not always held sufficiently accountable for continued violations of law committed on their property; and

WHEREAS, repeat police calls to disturbances at nuisance properties are costly to municipalities; and

WHEREAS, solutions to local problems are most effective when communities, by ordinance enacted only after a public hearing, control, devise and execute solutions; and

WHEREAS, House Bill 135, which has been introduced in the Alaska State Legislature, grants municipalities the ability to impose a fee on the owner of residential property if police respond to the property an excessive number of times; the fee is granted lien status against the nuisance property; and

WHEREAS, this bill is not a means of simply collecting more money; it makes irresponsible property owners assume the burden imposed on the public for illegal activities on their property; and

WHEREAS, under this bill, the State will not define "excessive" nor mandate a municipality to create such a fee system; it only allows municipalities to create such a system - as another tool for law enforcement - if they choose.

NOW, THEREFORE, the Anchorage Assembly resolves:

Section 1: That the Assembly supports House Bill 135 and encourages the Alaska State Legislature to pass the bill.

Section 2: That the Municipal Clerk forward copies of this resolution to the State Legislature upon passage and approval.

PASSED AND APPROVED by the Anchorage Municipal Assembly this 27 day of February, 2001.

Chair C/

ATTEST:

\_\_\_\_\_  
Municipal Clerk

709



George P. Wuerch.  
Mayor

# ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599

Telephone (907) 786-8500

<http://www.ci.anchorage.ak.us>



Walt Monegan  
Chief

March 28, 2001

The Honorable Gretchen Guess  
Alaska State Legislature  
State Capitol, Room 112  
Juneau, AK 99801-1182

Dear Representative Guess:

House Bill 135 offers municipalities a new tool for cleaning up high crime properties. This legislation authorizes cities to craft ordinances of their own for the purpose of billing owners of properties where crime runs unchecked. Local laws of this kind would encourage landlords to screen and retain renters properly, hold accountable those landlords who won't be encouraged, and permit the cities to recover some of the cost of dealing with their worst trouble spots. Further, the bill allows municipalities to tailor the crime thresholds and fee schedules to the needs and wishes of their own residents.

Anchorage, like most other cities, has its share of run down housing complexes that serve as havens for drug dealing and other criminal activity. The existence of such activity is patently obvious to neighbors and police; it cannot be unknown to the property owners. The police can (and do) cart off the criminals, but there are few means to stop the landlords from renting to more of the same. Civil abatement works, but it is a lengthy and expensive process. House Bill 135 appears to offer a very good intermediate step.

In preparing to write this letter, I asked my drug unit commander for an example of a property that would illustrate a need for the legislation you propose. He provided me the address of a thirty-five-unit complex near downtown Anchorage that is connected to the rear of a bar. According to computer records, APD was dispatched to this complex 110 times in 1999, and 112 times in 2000. The types of calls run the gamut, but most frequently drugs, drunkenness, and fighting are involved. The Anchorage citizens have paid for over 200 police responses in the last two years, and a lot of people have gone to jail, but the owner has not changed his business practices. Perhaps HB 135 will allow me to bring around his thinking.

Thank you for sponsoring this bill. Please do not hesitate to contact me if I can be of further help in supporting this effort.

Sincerely,

Mark T. Mew  
Deputy Chief of Police



April 11, 2001

Dear Representative Guess:

As the Executive Director of Standing Together Against Rape, I am writing regarding HB 135.

Municipality's having the ability to charge those who become chronic non-emergent users of a public safety system seems to be a prudent measure to insure that public emergency services are available for true emergencies.

It is my understanding that while this legislation acts as an enabler, it will still be within the individual municipal governments to develop the regulations and enforcement policies that will address the need in the communities. Alaskan communities vary. And our need to be able to structure local enforcement framework is critical.

Although we appreciate the efforts to build in safeguards for those we serve, it is also important to leave enough room for local programs to have voice before their municipal representatives in shaping the enforcement policies.

Standing Together Against Rape is an agency whose mission is to provide advocacy and support for victims of sexual assault, abuse, and incest as well as their loved ones and to provide education and outreach within our communities.

Thank you for this opportunity to provide input regarding HB135, and remember, April is sexual assault awareness month.

**ALASKA MORTGAGE BANKERS ASSOCIATION**  
P. O. BOX 9-2691 / ANCHORAGE, ALASKA 99509-2691

April 11, 2001

Representative Gretchen Guess  
Alaska State Legislature  
State Capital (MS 3100)  
Juneau, Alaska 99801-1182

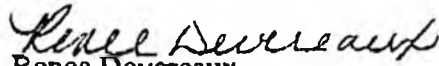
RE: HB 135

Dear Representative Guess:

The Alaska Mortgage Bankers Association (AMBA) has reviewed HB 135 work draft dated 4/10/01. The concerns express in our letter of April 6, 2001 have been addressed and the lien created by this bill will no longer be prior and paramount to our deed of trust.

Thank you for addressing our concerns. If you have any questions please contact me at (907) 222-8815 or (907) 222-8899 (fax).

Sincerely,



Renee Devereaux  
President, Alaska Mortgage Bankers Association  
1400 W. Benson Blvd. Suite #200  
Anchorage, Alaska 99503

**Subject: HB135**

**Date:** Wed, 11 Apr 2001 12:43:38 -0800

**From:** "kachemak bay title agency" <kbt@xyz.net>

**To:** <Nathan\_Johnson@legis.state.ak.us>

My name is Mary Ann Rowe and I am the President of Kachemak Bay Title Agency in Homer and also the Co-Legislative Chair of the Alaska Land Title Association which represents the title industry in Alaska.

I have reviewed the "Work Draft" on the CS for HB135 and would ask that you consider this proposed draft which deletes the "super lien" status and provides for priority similar to AS 29.45.650(e) which is currently used by boroughs which have sales tax. This draft will still provide that vehicle to attach any real and personal property of a party but enable the title industry to assure their policy holders that there are no "hidden" or "super" liens which could affect their property or lien rights at a later date and which would have priority over their ownership or liens.

Thank for you considering our recommendations. If I can be of further assistance, please let me know.

Mary Ann Rowe  
President  
Kachemak Bay Title Agency  
3691 Ben Walters Ln #1  
Homer AK 99603

907-235-8196  
907-235-2420

Co-Chair- Legislative Committee  
Alaska Land Title Association  
P. O. Box 241811  
Anchorage AK 99524



APR 13 2001

April 11, 2001

Mr. Norman Rokeberg, Chairman  
Judiciary Committee  
State Capitol, Room 118  
Juneau, Alaska 99801-1182

Re: HB 135

Dear Chairman Rokeberg,

We would like to request that the Judiciary Committee revise the working draft of HB 135, section 29.35.125. First, the bank does not believe that liens created under this section should have priority over any prior recorded liens. This would disrupt well-instituted property laws. As such, we recommend that lines 7-15 be removed, including the last word "When" on line 16. As an alternative, the committee could strike the following words from line 11 and 12 of page 2: "for amounts actually advanced before the recording of the lien under this subsection". We believe that a lien for a municipal fee should be subject to the same rules as any other lien and should not have priority over liens that were perfected before the recording of the lien for police protection services. We do not agree that a fee under this section should have priority position over funds not yet advanced under existing perfected liens. This would impact funds not yet advanced on home equity lines of credit, which are a very popular source of funds for many Alaskan consumers. In addition, if left intact, this bill would have a very adverse effect on the entire mortgage lending industry since it would create liens with a priority over home mortgages. As a result, the entire secondary market for mortgage financing could be negatively affected by this bill.

Sincerely,

Marc Langland  
President and CEO

**HB**

**140**

# STATE OF ALASKA

REPRESENTATIVE  
MIKE CHENAULT

Official Business

Interim:  
145 Main St. Loop, Second Floor  
Kenai, Alaska 99611  
(907) 283-7223  
Fax: (907) 283-3075



HOUSE OF REPRESENTATIVES

Session:  
Capitol Building, Room 432  
Juneau, Alaska 99801-1182  
(907) 465-3779  
Toll Free: (800) 469-3779  
Fax: (907) 465-2833

## Sponsor Statement House Bill 140

### **"An Act relating to gamma-Hydroxybutyrate."**

House Bill 140 was drafted to increase the penalties for the use of the commonly known date rape drug "GHB" or Gamma-Hydroxybutyrate. This bill elevates it from Schedule IVA to Schedule IA in AS 11.71. which would also increase the penalties for possession.

Hospitals and schools statewide have seen an upsurge in the use and misuse of GHB also known as the "date rape drug".

GHB is overwhelmingly used to incapacitate a person during a sexually violent encounter with little recollection of the event. GHB does have one legitimate medical use for the treatment of narcolepsy.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 140  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
 Title "An Act relating to gamma-Hydroxybutyrate" BRU Administration and Operations  
 Component All  
 Sponsor Rep. Chenault  
 Requester House Judiciary Committee Component No. 694

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation would place "GHB" on the controlled substance schedule as a schedule IA drug instead of its current placement as a schedule IVA drug. This would move the penalty up from either a Class B or Class C felony to a Class A or an unclassified felony. According to the Department of Public Safety, they have made no arrests that involved a charge of possession of "GHB". Additionally, the Department of Law reports that they have seen very few cases of "GHB". Based on this information and the fact that the resulting increased incarceration would in all likelihood not occur until the "outyears", the Department of Corrections is submitting a zero fiscal note. It should be noted, however, that in later years, there could be a fiscal impact on the Department.

Prepared by: Candace Brower  
 Division: Commissioner's Office  
 Approved by: Margaret Pugh, Commissioner  
 Agency: Department of Corrections

Phone 465-4652  
 Date/Time 4/23/02 3:59 PM  
 Date 4/23/02

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 140  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title "An Act relating to gamma-Hydroxybutyrate." BRU Criminal Division  
 Component All  
 Sponsor Representative Chenault  
 Requester House Judiciary Committee Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 Gamma-Hydroxybutyrate (GHB), one the the so-called "date rape" drugs, is presently classified as a schedule IVA substance in the criminal code. This bill would reclassify the drug as a schedule IA substance. Penalties for illegal activities involving schedule IA drugs are more serious than for schedule IVA drugs. Because the department sees very few cases involving GHB, we do not anticipate a fiscal impact.

Prepared by: Joan M. Kasson Phone (907) 465-5370  
 Division: Attorney General's Office Date/Time 4/23/02 8:25 AM  
 Approved by: Kathryn Daughhettee for Bruce M. Botelho, Attorney General Date 4/23/2002  
 Agency: Department of Law



# **Drug-Facilitated Rape: Looking for the Missing Pieces**

*by Nora Fitzgerald and K. Jack Riley*

**M**ore than 430,000 sexual assaults occur annually in the United States, according to victimization surveys.<sup>1</sup> Many of these assaults involve alcohol and drugs,<sup>2</sup> which are often used voluntarily by both victim and offender.<sup>3,4</sup> But in the mid- and late 1990's, ethnographers and rape crisis centers began hearing reports of drugs, often referred to as "roofies" and "liquid ecstasy," being administered clandestinely to immobilize victims, impair their memory, and thus facilitate rape. Two drugs in particular were mentioned in these reports: Rohypnol (the pharmaceutical trade name for flunitrazepam) and GHB (gamma-hydroxybutyrate).

These drugs can produce loss of consciousness and the inability

to recall recent events. Victims may not be aware that they have ingested drugs or that they have been raped while under the influence of drugs.<sup>5</sup> Reports of such assaults and increases in the recreational consumption of the drugs used in these assaults have brought drug-facilitated rape into sharp focus in recent years.

This article summarizes findings about drug-facilitated rape learned by researchers at the U.S. Depart-

ment of Justice in response to a request from the Attorney General for more information about this new phenomenon. (See "How This Article Came to Be.")

## What Are Rape-Facilitating Drugs?

Sexual assault victims who believe drugs were surreptitiously given to them typically report remembering sensations of drunkenness that do not correspond with the amounts of alcohol consumed, unexplained gaps in memory, altered levels of consciousness, and unexplainable signs of physical trauma. The most commonly implicated drugs are Rohypnol and GHB.

**Rohypnol**, or flunitrazepam, belongs to a class of drugs called benzodiazepines and is approved for use in 80 countries, but not in the United States or Canada. It is available only in pill form, is tasteless, odorless, and colorless, and dissolves to some degree in liquid.

Benzodiazepines are used primarily to produce sedation, sleep, or muscle relaxation; to reduce seizures and anxiety; and to produce anterograde amnesia, a desired effect for some surgical procedures. *Anterograde* amnesia is a condition in which events that occurred during the time the drug was in effect are forgotten, in contrast to *retrograde* amnesia, in which events prior to the intervening agent are forgotten.

Rohypnol mentally and physically incapacitates an individual, particularly when used in combination

## about the authors

Nora Fitzgerald is a Social Science Analyst at the National Institute of Justice. K. Jack Riley, Ph.D., is Director of the Criminal Justice Program at RAND. Fitzgerald and Riley (who at the time was Director of NIJ's Arrestee Drug Abuse Monitoring program) led the Department of Justice working group that conducted the research and wrote the report upon which this article is based.

## How This Article Came to Be

In December 1997, the U.S. Attorney General directed the Department of Justice to assess the problems posed by drugs being used to facilitate rape. A working group chaired by NIJ Director Jeremy Travis and representatives from several other Justice Department agencies began meeting regularly to structure the inquiry and review progress.

The group's overarching objective was to assess the state of knowledge about drug-facilitated rape and report back to the Attorney General within several months.

The group's first step was to determine how often drug-facilitated rape occurs. There are no national statistics for this offense (such as would be provided by the *Uniform Crime Reports*, the *National Criminal Victimization Survey*, or the *National Judicial Reporting Program*), so the group conducted a thorough review of other, nonnational-level research. This search revealed that no empirical data exist to answer the question.

The investigation then turned to a number of other data sources representing different perspectives: ethnographers, the print media, Internet-based data, law enforcement, victim advocates, policymakers, and the pharmaceutical industry. The search uncovered a considerable amount of conflicting information amid differing viewpoints.

The working group learned a great deal from its investigation but could draw no conclusions beyond a clear recognition that the incidence of this offense is extraordinarily difficult to measure, that existing indicators are incapable of monitoring the problem, and that the true magnitude of the problem cannot be known with certainty from the scientific methods that have been used to date.

To learn how to obtain a copy of the full report, see "For More Information" on page 15.

## Description of Data Sources

**Monitoring the Future (MTF):** This ongoing survey of 8th, 10th, and 12th graders uses a national probability sample. Sponsored by the National Institute on Drug Abuse. Visit <http://www.monitoringthefuture.org>.

**Drug Abuse Warning Network (DAWN):** DAWN records instances of emergency room visits and deaths related to particular drugs. Sponsored by the Substance Abuse and Mental Health Services Administration. Visit <http://www.samhsa.gov> and <http://www.health.org/pubs/dawn/index.htm>.

**Community Epidemiology Working Group (CEWG):** This ethnographic reporting system, in place in 21 metropolitan areas, supplements findings from national drug data systems. Sponsored by the National Institute on Drug Abuse. Visit <http://www.nida.nih.gov>.

**Pulse Check:** This ethnographic reporting system covers 20 metropolitan areas. Sponsored by the White House's Office of National Drug Control Policy. Visit <http://www.whitehousedrugpolicy.gov>.

with alcohol, and is capable of producing anterograde amnesia.

**GHB**, a drug first synthesized in the 1920's, occurs naturally in the human body in minute amounts. It was under development as an anesthetic agent in the late 1950's and early 1960's, but no commercial products were developed from these efforts. Until the FDA banned the drug in 1990, it was available through health food stores and marketed as both a sleep aid and as a body-building supplement. Several vendors distributed products containing GHB under trade names such as "Gamma Hydrate" and "Somatomax PM."

GHB is marketed in some European countries as an adjunct to anesthesia

and currently is being tested for treatment of narcolepsy as well as alcohol addiction and withdrawal (with mixed results) in Europe and the United States.<sup>6</sup>

## How Common Is Drug-Facilitated Rape?

No one really knows how common drug-facilitated rape is because today's research tools do not offer a means of measuring the number of incidents. However, recent findings from ethnographic research and school-based surveys can provide insight into the voluntary use of these drugs.

Flunitrazepam first appeared in early warning ethnographic systems in December 1993, when it was reported among Miami high school students.

By 1995, the Community Epidemiology Working Group (CEWG) found that use of Rohypnol was spreading in Florida and Texas. Pulse Check reported Rohypnol use was rising, particularly among youth and young adults. Ethnographers in Florida and Texas reported that local law enforcement agents were seizing more Rohypnol tablets, often still in the manufacturer's packaging.

In 1996, Monitoring the Future (MTF) began tracking Rohypnol. In 1999, MTF found that 0.5 percent of 8th graders and 1.0 percent of 10th and 12th graders had reported using Rohypnol in 1998, a level slightly below those found a year earlier.<sup>7</sup> Such rates appear low in comparison to marijuana or amphetamine use, but they are not trivial—10th and 12th graders report similar levels of heroin use.<sup>8</sup>

In 1997, Pulse Check noted that although Rohypnol continued to be available in Florida and Texas, distribution had slowed.

In 1998, Texas' statewide student survey, which uses the same methodology and many of the same items as MTF, found that 1.3 to 2.1 percent of Texas students in grades 8 to 12 reported use of Rohypnol during the school year.<sup>9</sup> Later in 1998, Pulse Check reported that Rohypnol was in use in Florida, Hawaii, Minnesota, and Texas.

Mention of widespread recreational use of GHB only recently has been reported by CEWG in December 1997. In winter 1998, Pulse Check reported use of GHB in many urban areas.

The Drug Abuse Warning Network (DAWN) also has captured information about GHB because of overdoses. The Drug Enforcement Administration has documented approximately 650 overdoses and 20 deaths related to GHB. MTF added questions about GHB to its year 2000 survey.

Available law enforcement statistics on seizures and trafficking (primarily from the Drug Enforcement Administration) tend to corroborate the ethnographic and survey data.

Ethnographic measures may not represent the true scale of the drugs' use, however, and more rigorous scientific measures have not been in place long enough to give researchers the ability to project accurate trends.

Another factor complicating science's ability to measure the incidence and prevalence of these drugs is the lack of law enforcement evidence. Investigations of suspected drug-facilitated assaults often turn out to be inconclusive because many victims do not seek assistance until hours or days later, in part because the drugs have impaired recall and in part because victims may not recognize the signs of sexual assault. By the time they do report a suspected assault, conclusive forensic evidence may have been lost. Even when

victims do suspect a drug-facilitated rape and seek help immediately, law enforcement agencies may not know how to collect evidence appropriately or how to test urine using the sensitive method required. (See further discussion of investigation

policies below and in the sidebar "Learning From Victims.")

To add more complexity to the puzzle, school-based surveys seem to suggest that Rohypnol and GHB are consumed voluntarily, perhaps

increasingly so, because these drugs are cheap, easy to share, and easy to hide. Use appears to be concentrated among populations that also are at the highest risk of sexual assault, including middle school, high school, and college-age students.

## Learning From Victims

by Gail Abarbanel, LCSW

*Gail Abarbanel is the director of the Rape Treatment Center (RTC) at Santa Monica-UCLA Medical Center. Established in 1974, the RTC has treated more than 20,000 sexual assault victims. The RTC's informational materials on drug-facilitated rape are distributed throughout the United States.*

In late 1995, the Rape Treatment Center at Santa Monica-UCLA Medical Center began to see a new pattern in sexual assault cases. Victims were coming in who believed they had been drugged surreptitiously to incapacitate them for the purpose of sexually assaulting them. Many of these cases followed a similar pattern. Victims were in what seemed like a comfortable social environment, such as a restaurant, party, or club. Unbeknownst to them, someone slipped a drug into their drink. As they consumed the drink, they began to feel disoriented or sick. The next thing they remembered was waking up hours later, sometimes in a different location.

When they regained consciousness, some victims were unsure if they had been sexually assaulted. Others found signs that they had been: They were undressed; they had semen stains on their bodies and/or clothing; they had vaginal or anal trauma, such as soreness and/or lacerations. All of these victims reported significant memory impairment. Most could not recall

what was done to them, who participated, or how many people were present while they were unconscious. Some could remember brief, intermittent periods of awakening, during which they were aware of their surroundings but were unable to move or speak. They felt "paralyzed." One victim said, "I came to and saw this guy on top of me about to rape me, but I couldn't move my arms or legs. Then I passed out again."

It was apparent to the staff at the Rape Treatment Center that some rapists were using a powerful new weapon to overpower, disable, and control their victims.

When victims began to report these crimes to the authorities, their cases often were dismissed. One victim was told, "He has his memory, you don't have yours. There's no evidence. The case is closed."

In many instances, crucial physical evidence was never gathered from victims or crime scenes. For example, even when sexual assault evidentiary examinations were conducted, urine specimens needed to detect traces of the drugs were omitted because, in most jurisdictions, urine samples were not routinely included in standardized rape kits. As a result of these deficiencies, many victims felt revictimized by the agencies that were supposed to help them.

When these cases initially appeared, there was little information in the

professional literature or in news coverage about rape drugs or drug-facilitated sexual assaults. Victims were a crucial source of information. Their reports helped define this emerging crime pattern by identifying the characteristics of these crimes that distinguished them from other sexual assaults.

In addition, the problems victims encountered suggested an urgent need for a comprehensive, broad-based community response, including new protocols for hospitals, police departments, and crime labs; updated rape evidence kits; training for police officers, prosecutors, rape crisis centers, and other victim service providers; public policy and legislative reforms; research; and public education and prevention programs.

### What Victims Have Taught Us

**How Rape Drugs Facilitate Sexual Assaults.** Rape drugs make it relatively easy for rapists to gain control of their victims. Perpetrators do not have to overcome any form of resistance. They do not have to use physical force. They do not have to threaten to harm the victim to get compliance. Nor do they have to be concerned about a victim's screams attracting attention. The drugs they administer immobilize and silence the victim.

*(continued on page 12)*

**How Victims are Prevented From Detecting Threats to Their Safety.**

Victims of these crimes do not sense any threat to their safety when the assailant is incapacitating them. The "weapon" used to overpower and disable them is invisible; it is hidden in a drink.

**How Victims are Inhibited From Exercising Self-Defense.** The ability to sense danger is critical to a person's ability to implement self-defense strategies. When faced with the threat of being raped, most people employ one or more protective measures, such as verbally negotiating with the assailant, cognitively assessing their options, screaming, stalling, attempting to escape, and/or physically resisting; if these efforts fail to prevent the rape, victims may "fight back" in other ways. They may use their sensory and cognitive abilities to memorize details about the assailant's physical characteristics, the location of the crime, and other factors that can later be used to aid authorities in apprehending and prosecuting the offender.

The incapacitating effects of rape drugs rob victims of their ability to use these coping strategies. One victim said, "Rape is never a fair fight, but I didn't even have a chance to defend myself."

**How Rapists Can Appear to Be Rescuers.** When victims are drugged in places where other people are present, such as restaurants, clubs, bars, and parties, the rapist may appear to bystanders and witnesses to be a rescuer. The behavioral effects of rape drugs look very much like the effects of voluntary alcohol consumption. To onlookers, the victim may seem drunk. When the rapist carries or leads the victim to another location where the sexual assault will be committed, he may be viewed as "helping" or

transporting a vulnerable person to a safe place.

**How Rape Drugs Affect Reporting Patterns.** Victimization surveys consistently indicate very low reporting rates among rape victims. Delayed reports also are common, particularly in acquaintance rapes. The reasons are well documented in the literature. In drug-facilitated rapes, additional factors may account for low and delayed reporting, including the immediate and residual effects of the drugs (the victim may be unconscious for several hours after the assault and may have hangover effects after regaining consciousness); feelings of guilt or self-blame because of prior voluntary ingestion of alcohol and/or drugs; confusion and uncertainty about what happened; and reluctance to make an accusation without personal knowledge or memory of the assault circumstances.

**How Victims' Inability to Recall What Happened Affects the System's Response.** Many aspects of a rape investigation are facilitated by a victim's ability to describe what happened. The victim's narrative helps guide the medical/evidentiary examination and the police investigation. In addition, it may be an important consideration in prosecutor filing decisions and judgments about credibility. When victims of drug-facilitated rapes cannot give a complete narrative, they often encounter suspicion, disbelief, and/or frustration. Their inability to supply information that could assist the investigation and/or prosecution compounds their sense of helplessness.

**How People Misjudge and Minimize Victims' Trauma.** Because most victims of drug-facilitated rapes have no memory of the sexual assault, people may mistakenly minimize the trauma

they suffered. One victim was told, "You're lucky you can't remember, you won't suffer as much as other victims." For all rape victims, the loss of control experienced during an assault is profoundly traumatic. In drug-facilitated rapes, the additional deprivation of cognition during the assault, combined with anterograde amnesia afterwards, subjects the victim to an extreme form of powerlessness.

**How Drugging Is a Unique Form of Trauma.** Many of the difficulties victims face in the aftermath of these assaults are due to the effects of the drugs given by offenders. The surreptitious drugging of a victim is, in and of itself, a cruel and criminal violation of the person. Some victims describe this aspect of the trauma as "mind rape." The drugging should be recognized as a separate and distinct act of victimization in addition to any other acts of abuse and degradation to which the victim was subjected.

**How Being Unable to Forget Compares With Being Unable to Remember.** In the aftermath of rape, most victims suffer acute stress disorder and post-traumatic stress disorder symptoms. One of the most disturbing symptoms is their inability to *forget* what happened. The trauma is reexperienced repeatedly. Victims commonly have recurrent, intrusive recollections of the rape, including thoughts, flashbacks, and nightmares. For victims of drug-facilitated rapes, this aspect of the aftermath may be experienced differently. Because they cannot *recall* what happened during a significant time period, they have to cope with a gap in their memory. They experience the horror, powerlessness, and humiliation of not knowing what was done to them. They can only imagine what happened. One victim said, "I would rather have the nightmare."

# FDA TALK PAPER

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## FDA WARNS ABOUT GBL-RELATED PRODUCTS

FDA is warning the public of a new group of products being marketed as sleep aids that have been associated with at least 3 deaths and several severe adverse reactions. These products are chemically related to gamma butyrolactone (GBL) and gamma hydroxybutyric acid (GHB) substances that have been determined to pose a significant health hazard to the public. In particular, one of these products, 1,4 butanediol (BD) has been declared a Class I Health Hazard -- a potentially life-threatening risk -- by the FDA.

BD is a chemical that can cause dangerously low respiratory rates, unconsciousness, vomiting, seizure and death. BD may also increase the effects of alcohol and is even more dangerous when consumed with other depressant drugs.

Products that contain BD include Revitalize Plus, Serenity, Enliven, GHRE, SomatoPro, NRG3, Thunder Nectar and Weight Belt Cleaner.

Some of the suspect products may list 1,4 butanediol, tetramethylene glycol, gamma butyrolactone or 2(3H)-Furanone di-hydro on the label.

These products are listed as "party drugs" on internet sites, advertised in muscle-building magazines, and sold in health food stores as dietary supplements to aid in sleep. The FDA, however, considers these products unapproved new drugs and has conducted seizures of the product to prevent the sale to consumers and any further illnesses or deaths.

This is not the first time that products of this nature have caused a serious health hazard. In February, 1997, FDA re-issued a warning on GHB for body building and "recreational" uses. GHB continues to be an unapproved and potentially dangerous drug and cannot be legally marketed in the U.S. It has been implicated as a "date rape" drug.

On February 2, 1998, a California chiropractor was fined \$2,000 and imprisoned for illegally distributing tainted liquids that sickened more than 100 partygoers at a New Year's Eve 1996 "rave" party in Los Angeles.

FDA warned consumers not to ingest the products blamed for the injuries, which were labeled Cherry fX Bombs, Lemon fX Drops and Orange fX Rush. They all contained 1,4 Butanediol.

In January, 1999, FDA issued a talk paper warning consumers about products containing GBL another product marketed as a dietary supplement, which when ingested, converts to GHB in the body.

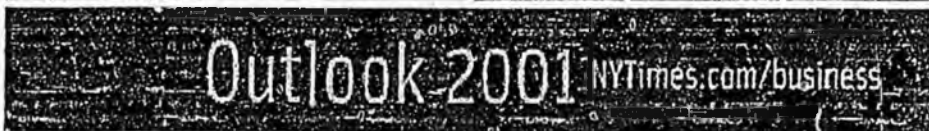
GBL, GHB, and BD have been associated with reports of at least 122 adverse health effects, including the three deaths. In many cases, the consumers became unconscious or comatose and several required intubation for assisted breathing.

Health authorities believe manufacturers are renaming their products and substituting 1,4 butanediol for GBL. The effects of ingesting BD are as dangerous as those of GHB and GBL.

FDA can not assure the effectiveness or safety of any product for sleep inducement other than FDA approved drugs. People who use unapproved sleep inducement products, especially without proper medical supervision, may be unnecessarily exposing themselves to serious harm.

####

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January 11, 2001

## Body-Building Supplement Blamed for Deaths

By REUTERS

**B**OSTON - People who use a dietary supplement found in some body-building products are risking death, researchers in Minnesota, Texas and Florida report in Thursday's New England Journal of Medicine.

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Lead researcher Deborah Zvosec of the Hennepin County Medical Center in Minneapolis studied nine cases where people fell ill after consuming products containing the supplement known formally as 1,4-butanediol or BD. Two died.

The U.S. Drug Enforcement Administration has identified 71 deaths caused by BD and another 40 or so are being investigated as suspicious, Zvosec told Reuters.

"And that's just the tip of the iceberg," she said because many people with overdoses don't seek treatment.

There has been little formal study of BD, which is also used as an industrial solvent. Promoters claim it is a natural and nontoxic way to build muscle, improve athletic performance, increase libido and sexual performance, reduce wrinkles, reverse baldness and reduce stress, depression and insomnia. The claims have not been proven.

The chemical is often listed on ingredient labels as tetramethylene glycol, butylene glycol or suclo-B, and it is contained in products with brand names like Thunder Nectar, InnerG, Amino flex, Rejuv+Nite, Liquid Gold, Thunder, Serenity, X-12 and N-Force.

In 1990, the U.S. Food and Drug Administration banned the sale of its chemical cousin, gamma-hydroxybutyrate (GHB). But after Congress passed a 1994 law making it harder for the federal government to regulate "health foods," manufacturers began marketing a similar product called gamma-butyrolactone (GBL), according to Zvosec and her colleagues.

In January 1999, the FDA warned that GBL was also dangerous.

After the health food industry voluntarily recalled products with GBL, BD "began to be marketed as a 'replacement product,' for gamma-butyrolactone," and promoters expanded their claims for the new products, the Zvosec team said.

In May 1999, the FDA issued a warning about 1,4-butanediol supplements as well, the researchers said.

Nonetheless, "extensive marketing continues on the Internet, and the use of all three compounds, sometimes interchangeably, has increased," the researchers said.

"If you talk to 100 doctors, maybe 10 have heard about this," said co-author Dr. Stephen W. Smith of the Hennepin County Medical Center. In an interview, he said doctors can identify the problem if they know what to look for.

One symptom is a sudden swing between wild, combative behavior and an abrupt loss of consciousness, he said, adding other symptoms include nausea and incontinence.

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