ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10592 SENATE JUDICIARY

SB

87

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 87
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: OOG

Title	An Act providing absentee ballots for voters in remote areas
Sponsor	Senator Lincoln
Requester	Senate State Affairs Committee
BRU	Elections
Component	Elections
Component No.	21

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	0.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	C.0

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)*

Prepared by: Gail Fenumiai, Election Administrative Supervisor — Phone 465-3935
Division: Division of Elections — Date/Time 2/15/02 2:28 PM
Approved by: Lieutenant Governor Fran Ulmer — Date 02/15/2002
Agency: Office of the Lieutenant Governor

(Revised 9/2001 OMB)

ALASKA STATE LEGISLATURE

Senator Georgianna Lincoln

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3732
Fax (907) 465-2652
1-888-461-3732
Email: Senator_Georgianna_Lincoln@legis.state.ak.us

Standing Committees:
- Resources
- Community & Regional Affairs

Budget Subcommittees:
- Natural Resources
- Corrections
- Public Safety
- Commerce & Economic Development

DISTRICT R

Alatna
Alcan
Allakaket
Aniak
Anvik
Arctic Village
Beaver
Bettles
Big Delta
Birch Creek
Boundary
Canyon Village
Central
Chalkyitsik
Chenega Bay
Chicken
Chistochina
Chitina
Chuathbaluk
Circle
Cold Foot
Copper Center
Copperville
Cordova
Crooked Creek
Delta Junction
Dot Lake
Dry Creek
Eagle
Eagle Village
Evansville
Fort Greely
Fort Yukon
Gakona
Galena
Georgetown
Glennallen
Grayling
Gulkana
Healy Lake
Holy Cross
Hughes
Huslia
Kaltag
Kenny Lake
Koyukuk
Lake Minchum
Lime Village
Livengood
Lower Kalskag
Manley Hot Spr
Marshall
McCarthy
McGrath
Medfra
Mendeltna
Mentasta
Minto
Nabesna
Nenana
Nikolai
Northway
Nulato
Paxson
Pilot Station
Rampart
Red Devil
Ruby
Russian Mission
Shageluk
Slana
Sleetmute
Stevens Village
Stony River
Takotna
Tanacross
Tanana
Tatitlek
Tazlina
Telida
Tetlin
Tok
Tolsona
Tonsina
Tuluksak
Tyonek
Upper Kalskag
Valdez
Venetie
Whittier
Wiseman

MEMORANDUM

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee

FM: Senator Georgianna Lincoln

RE: Committee Hearing for SB 87

DATE: February 20,2002

At your earliest convenience could you please schedule SB 87 for a hearing in the Senate Judiciary Committee. SB 87 passed from Senate State Affairs yesterday without objection and with a 0 fiscal note. If you have any questions please do not hesitate to contact my Chief of Staff, Sara Boario, who will be working on this legislation.

REQUEST FOR HEARING

ALASKA STATE LEGISLATURE

Senator Georgianna Lincoln

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3732
Fax (907) 465-2652
1-888-461-3732
Email: Senator_Georgianna_Lincoln@legis.state.ak.us

Standing Committees:
Resources
Community & Regional Affairs

Budget Subcommittees:
Natural Resources
Corrections
Public Safety
Commerce & Economic Development

DISTRICT R

Alatna
Alcan
Allakaket
Aniak
Anvik
Arctic Village
Beaver
Bettles
Big Delta
Birch Creek
Boundary
Canyon Village
Central
Chalkyitsik
Chenega Bay
Chicken
Chistochina
Chitina
Chuathbaluk
Circle
Cold Foot
Copper Center
Copperville
Cordova
Crooked Creek
Delta Junction
Dot Lake
Dry Creek
Eagle
Eagle Village
Evansville
Fort Greely
Fort Yukon
Gakona
Galena
Georgetown
Glennallen
Grayling
Gulkana
Healy Lake
Holy Cross
Hughes
Huslia
Kaltag
Kenny Lake
Koyukuk
Lake Minchumina
Lime Village
Livengood
Lower Kalskag
Manley Hot Springs
Marshall
McCarthy
McGrath
Medfra
Mendeltna
Mentasta
Minto
Nabesna
Nenana
Nikolai
Northway
Nulato
Paxson
Pilot Station
Rampart
Red Devil
Ruby
Russian Mission
Shageluk
Slana
Sleetmute
Stevens Village
Stony River
Takotna
Tanacross
Tanana
Tazlina
Tazlina
Telida
Tetlin
Tok
Tolsona
Tonsina
Tuluksak
Tyonek
Upper Kalskag
Valdez
Venetie
Whittier
Wiseman

SPONSOR STATEMENT

Senate Bill 87
An Act providing special absentee ballots for voters in remote areas

SB 87 offers a voter living in remote locations the opportunity to vote using the 60-day special advance absentee ballot. In current statute, only voters living, working or travelling outside of the United States are eligible for a 60-day special advance absentee ballot. However, voters living in extremely remote areas are sometimes disenfranchised by conditions beyond their control. Distance, terrain and natural conditions have prevented voters from reaching the polling place or from receiving by-mail ballots. SB 87 will dramatically increase the window of opportunity to vote.

The recent Florida recount impressed upon us that every vote counts. Doug and Becky Bowers, were unable to vote in the last election due to a late freeze-up which kept them from crossing the river to their polling place. Larry and Rose Coy faced similar circumstances one year, and, were forced to charter a plane at great expense, $525, in order to exercise their right to vote.

Voting is the fundamental method citizens utilize to participate in our democracy. The health of our democracy rests on the participation of every Alaskan. While many may take that right for granted, there are others, like Doug and Becky Bowers, who listen in frustration as the election returns come in over the radio, hindered by factors beyond their control from making their votes count.

Simply, SB 87 assists Alaskan voters in remote areas of the state to exercise their right to vote. The Division of Elections already distributes the 60-day special advanced absentee ballots, and this legislation will not be difficult to implement. I respectfully request your consideration and support of SB 87.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

OFFICE OF THE LT. GOVERNOR

DIVISION OF ELECTIONS
P.O. BOX 110017
JUNEAU, ALASKA 99811-0017
PHONE: (907) 465-4611

January 22, 2002

The Honorable Georgianna Lincoln
Senator, Alaska State Legislature
State Capitol, Room 11
Juneau, Alaska 99801

Dear Senator Lincoln:

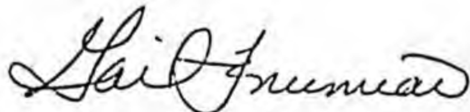
After the first hearing of Senate Bill 87 in the Senate State Affairs Committee, questions arose concerning the term "reasonable." I would like to provide to you with more information about permanent absentee voters.

The permanent absentee voters who would benefit from this bill are uniquely identified within our voter registration system. A voter may only be designated in permanent absentee status by a regional election supervisor. The conditions under which a voter may be designated as such are outlined in 6 AAC 25.650. This regulation has been in place since 1990. The division can assure you that there is no abuse of this system.

Although a voter is designated as a permanent absentee voter, they must complete an absentee by-mail ballot application prior to receiving any ballot. The designation of permanent absentee status alerts the regional election supervisors that these voters must be sent an absentee by-mail application per the schedule set out in 6 AAC 25.650.

Again, thank you for your efforts in promoting this legislation.

Sincerely,



Gail Fenumiai
Election Administrative Supervisor

INFORMATION STATEMENT

01-A2LH

printed on recycled paper

STATE OF ALASKA

OFFICE OF THE LT. GOVERNOR

Region III Elections Office
675 7th Avenue, H3
Fairbanks, AK 99701-4594
PHONE (907) 451-2835

May 4, 2001

The Honorable Georgianna Lincoln
Senator, Alaska State Legislature
State Capitol, Room 11
Juneau, Alaska 99801

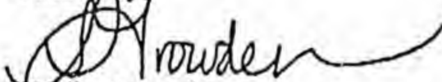
Dear Senator Lincoln:

As the Region III Elections Supervisor, I am responsible for voter registration and election management throughout interior Alaska and Prince William Sound. Your office requested information regarding areas in my jurisdiction that would benefit by the passage of SB 87.

I have over 1,000 voters living in remote areas that have been classified as permanent absentee voting areas. Some of these voters live in areas such as the Kantishna River, Cosna River, Holitna River, Takahula Lake, Inlakuk Lake, Tolovana River, Chandalar Lake, Wien Lake, Flat, Chisana, Healy Lake, and other areas that do not have regular mail service. Without regular mail service, these voters have an extremely hard time exercising their right to vote due to the absentee ballot timeframes established in Alaska law.

Each election cycle I receive requests from voters residing in remote areas to obtain an absentee ballot early because of their limited ability to receive mail. Currently, the division mails ballots approximately three weeks before each election for regular absentee voters. Without regular mail service, many of the voters living in remote areas cannot receive their ballot in time to vote. SB 87 would allow voters living in these remote areas to obtain an advance absentee ballot just like the advance ballot privileges afforded to overseas voters.

Sincerely,



Shelly Growden
Elections Supervisor, Region III

Ruth M. and Larry F. Coy
P.O. Box 515
Nenana, Alaska 99760

Dear Senator Lincoln,

We are writing to you in support of Senate Bill 87. We support this bill because of the fact that Larry chartered a flight in to town to vote on a subject that we considered important. This charter flight cost us $525.00. Even though what we had voted on did not pass at least we voted on the subject. If there was a 60 day window for absentee ballots instead of the 30 days it would be of considerable help to the bush residents and they would be able to cast their ballots on important issues.

Sincerely,
Mrs. & Mr. Larry E. Coy
Ruth M. and Larry E. Coy

TOLOVANA ROADHOUSE
TOLOVANA, ALASKA
BOX 281
NENANA,ALASKA 99760
PHONE/FAX 907.832.5258
EMAIL- tolovana@pocketmail.com

Senator Georgiana Lincoln
State Capitol Bldg.
Juneau AK 99801

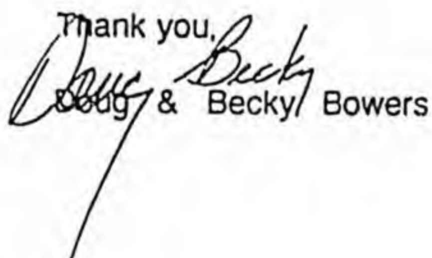
1/30/01

Dear Senator,

Thank you for attending to the legislation that will allow our family to vote in the fall elections.
The issue that started the letter to you on this matter was the presidential election this fall, coupled with a late freeze up. We couldn"t get across the Tolovana to Manley Hot Springs (our normal polling place) or across the unfrozen lakes and sloughs to Nenana to vote a question ballot (I'm not sure if they would have let us vote that way anyhow}. We know it has happened to our neighbors up the Kantishna in the past.

It is frustrating to listen to the election returns on the radio knowing you weren't able to participate. By extending the scope of the 60 day overseas absentee ballot many disenfranchised Alaskans living in the bush will be able to exercise their right to vote.

Thank you,



Doug & Becky Bowers

STATE OF ALASKA

OFFICE OF THE LT. GOVERNOR

Division of Elections
P.O. Box 110017
Juneau, Alaska 99811-001
PHONE (907) 465-4611

February 16, 2001

The Honorable Georgianna Lincoln
Senator, Alaska State Legislature
State Capitol, Room 11
Juneau, Alaska 99801

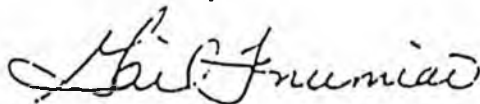
Dear Senator Lincoln:

Thank you for allowing the division to comment on Senate Bill 87. The division supports your efforts in assisting Alaska voters in remote areas of the state to exercise their right to vote.

Senate Bill 87 expands the allowable use of the 60-day special advance ballot to Alaskans in remote locations. This will allow additional time for these voters to receive their ballot.

Thank you for proposing this legislation. We believe it will have a positive impact for voters in Alaska's most remote areas.

Sincerely,



Gail Fenumiai
Election Programs Specialist

SB

91

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 91
(S) Publish Date: 4/3/01

Revision Date/Time (Note if correction):
Title: Services available to pregnant wo'an/ informed consent for abortion
Sponsor: Ward
Requester: Senate (HES)

Dept. Affected: Health & Social Services
BRU: State Health Services
Component: Maternal, Child, & Family Hlth
Component Number: 290

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	22.1	23.9	25.7	27.5	29.3	31.1
Travel	10.0	4.0	4.2	4.4	4.3	4.5
Contractual	16.0	3.5	3.5	3.5	3.5	3.5
Supplies	2.0	1.0	0.8	0.9	0.9	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	50.1	32.4	34.2	36.3	38.0	40.1
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

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	50.1	32.4	34.2	36.3	38.0	40.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	50.1	32.4	34.2	36.3	38.0	40.1

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

POSITIONS	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Full-time						
Part-time	2	2	2	2	2	2
Temporary						

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

Personnel: $22.1

.25 FTE Advanced Nurse Practitioner to 1) develop initial information packet, 2) conduct on-going literature review and provide updates when new information becomes available

.10 FTE Administrative Clerk II to 1) provide clerical support for mailings, copying, and ordering materials

Travel: $10.0

Travel to areas in Alaska to do training on the new requirements.

Prepared by: Karen Pearson
Division: Public Health
Phone: (907) 465-8613
Date/Time: 3/6/01 1:12 PM

Approved by: Elmer A. Lindstrom, Special Assistant
Agency: Department of Health & Social Services
Date: 3/6/2001

For distribution information, call the Governor's Legislative Office

(Rev 2/7/2001 OMB)

COMMITTEE COPY

Revision Date: Bill Version: SB 91 #1

ANALYSIS: (continued)

Contractual: $16.0

Material printing costs:

Initial	$10.0
Ongoing	$ 2.0

Postage:

Initial	$6.0
Ongoing	$1.5

Supplies: $2.0

Initial	$2.0	
Subscriptions/books for ANP		$0.5
Envelopes		$0.7
Letterhead		$0.8
Ongoing	$1.0	

SENATOR JERRY WARD
ALASKA STATE LEGISLATURE

SPONSOR STATEMENT FOR SB 91

Ensuring Informed Consent

SB 91 elevates Alaska's current informed consent requirement from regulation to statue. This legislation would ensure that a patient is given the appropriate information about an abortion procedure without obstructing a physician's ability to tailor information to the individual needs of the patient.

Since the early 1970s, Alaska regulations have required physicians to advise patients seeking abortion of the "medical implications and the possible emotional and physical sequelae of the procedure." (12 AAC 40.070). However, Alaska's informed consent regulation lacks specificity and is not uniform in its application.

SB 91 requires the Department of Health and Social Services to develop a pregnancy informational pamphlet to be made available to the public. The pamphlet would list factual, nonbiased information about pregnancy and abortion, as well as pregnancy and abortion alternative resources, and state services available to women in Alaska.

SB 91 reinforces the current ethical standards by protecting them from possible systematic abuse in the future, putting a statutory safeguard into place for both women and physicians.

January-May: State Capitol • Juneau, AK 99801-1182•(907) 465-4940•FAX (907) 465-3766
Anchorage: 716 W. 4th Ave. STE. 450•Anchorage, AK 99501•(907) 269-0106•FAX (907) 269-0109
Kenai: 14 [illegible] 283-3075

ALASKA STATE LEGISLATURE

Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE
SENATOR LYDA GREEN, CHAIR

PROPOSED SENATE HESS COMMITTEE SUBSTITUTE
FOR

SB 91 ABORTION: INFORMED CONSENT;INFORMATION

SB 91 would require the Department of Health & Social Services to prepare an informational pamphlet relating to pregnancy and pregnancy alternatives under guidelines described in the bill.

The proposed Senate Health, Education and Social Services Committee substitute for SB 91 addresses the distribution of the pamphlet. The committee substitute replaces subsection (c) of Section 1, which begins on page 3, line 9, to read as follows:

> The department shall advertise the availability of the information required under (a) of this section and distribute the information free of charge on request and in appropriate volume to the requester. The department shall also place the information in public hospitals, clinics, or other health facilities throughout the state and, upon request of an administrator, in a private hospital, clinic, or health facility so that members of the public may obtain the information voluntarily, without request.

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR JERRY WARD, SENATOR GARY WILKEN, SENATOR BETTYE DAVIS

Letters of Support

SB

97

SENATOR JERRY WARD
ALASKA STATE LEGISLATURE

SPONSOR STATEMENT FOR SB 97

Adult probation and parole supervision costs the state over $9.3 million and juvenile probation costs an additional $6.7 million. SB 97 would require the Department of Corrections to charge a fee from all persons under their supervision that are on probation or parole.

Each person on probation or parole will be required to pay three dollars and thirty cents ($3.30) per day to defer the cost of their supervision. Most persons as a requirement of release are required to work. SB 97 would allow for the garnishment of permanent fund dividend checks as another method of collecting these fees. With over 4700 adults on probation or parole this legislation could generate over $5.7 million dollars per year. The same program, with 1027 juveniles on probation, would generate an additional $1.2 million dollars per year, for a total of almost $6.9 million dollars annually. For those who are able to pay and choose not to, this legislation calls for revocation of parole.

While the numbers of states charging fees is on the increase, the idea is not new. By 1988 as many as 48 states collected some type of correctional fees. In 1846 Michigan enacted the first correctional fee law in the country. Unlike financial obligations imposed to inflict punishment (e.g., fines, restoration of victim's losses or other civil obligations), correctional fees are imposed to generate revenues for correctional programs. Texas for example funds over half of its probation and parole program through fees. With correctional costs skyrocketing in recent years, the notion that offenders should contribute to their own supervision has gained widespread political and public support.

January-May: State Capitol • Juneau, AK 99801-1182•(907) 465-4940•FAX (907) 465-3766
Anchorage: 716 W. 4th Ave. STE. 450•Anchorage, AK 99501•(907) 269-0106•FAX (907) 269-0109
Kenai: 145 Main Street Loop•Kenai, AK 99611•(907) 283-7996•FAX (907) 283-3075

SB

99

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 99
() Publish Date:

Revision Date/Time (Note if correction):
Title: An Act relating to the DNA identification registration system
Sponsor: Senator Halford
Requester: Senate Judiciary Committee

Dept. Affected: Dept. of Public Safety
BRU: AST-Detachments
Component: AST-Detachments
Component Number: 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill is not expected to have a fiscal impact.

Prepared by: Lt. Steve Dunnagan
Division: Alaska State Troopers
Phone: (907)269-4532
Date/Time: 2/26/01 12:00 AM

Approved by: Commissioner Glenn G. Godfrey
Agency: Department of Public Safety
Date: 2/26/01

For distribution information, call the Governor's Legislative Office

(Rev 2/7/2001 OMB)

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 99
() Publish Date:

Revision Date/Time (Note if correction):
Title: "An Act relating to the DNA identification registration system."
Sponsor: Senator Halford
Requester: (S) Judiciary

Dept. Affected: Administration
BRU: Legal and Advocacy
Component: Public Defender
Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	**	**	**	**	**	**
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**	**	**	**	**	**
CAPITAL EXPENDITURES	**	**	**	**	**	**
CHANGE IN REVENUES ( )	**	**	**	**	**	**

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

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

See attached sheet.

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

For distribution information, call the Governor's Legislative Office

(Rev 11/2000 OMB)

This bill adds burglary or a felony attempt to commit burglary to the list of crimes for which, after conviction, a defendant can be required to give a DNA sample. This bill will most likely have fiscal impact on the Public Defender Agency. Failing to comply with a valid request to provide a DNA sample is already a Class A misdemeanor. See A.S. 11.56.760. The Agency is likely to be appointed to represent people accused of this crime.

Currently the Public Defender Agency has few of these cases. If the sampling program becomes more widespread with the inclusion of additional crimes and more samples being requested, more refusals will undoubtedly be prosecuted. In that case there could be a significant fiscal impact on the Public Defender Agency. Over 680 people were arrested for burglary in Alaska in 1999 (Crime Reported in Alaska, 1999, Department of Public Safety).

Although out of state research purportedly claims many sex offenders have prior burglaries on their records, burglary is a property crime. Many youthful offenders commit burglaries, are successfully rehabilitated and do not commit further offenses. It is unclear that such a serious invasion of privacy required by this bill is warranted.

ALASKA STATE LEGISLATURE

Senator Rick Halford
President of the Senate

While in Session:
State Capitol
Juneau, AK 99801-1182
907-465-4958

While in Interim:
P.O. Box 670190
Chugiak, AK 99567
907-694-4958

Sponsor Statement
Senate Bill 99

"An Act relating to the DNA identification registration system."

In 1996, Alaska passed House Bill 27, establishing a DNA database as a tool to help the law enforcement community identify perpetrators of violent crimes, especially sexual offenders. DNA evidence has proven to be very effective for identifying, capturing and convicting repeat criminals. All 50 states have laws requiring DNA testing of convicted sex offenders, and sharing information with other states has helped Alaska make convictions on cases which have not been solved for years.

Alaska's current statute requires testing of anyone convicted of a felony against a person. During debate on the original legislation, there was discussion of including burglary. At the time, there were no definitive studies showing a connection between burglary and consequent violent offenses, so House Bill 27 did not require testing for burglars.

As the databases expanded, statistics have shown there is a relationship between burglary and violent crimes. A recent Florida study shows that 52% of murderers and sex offenders had a previous burglary conviction. In Virginia, the first state to establish a DNA database, a study showed that more than half of the DNA matches from crime scenes of rapes and murders are from samples of convicted burglars. At this time, 24 states have included convicted burglars in their DNA registries.

By testing convicted burglars, we will allow law enforcement officials to stop a violent criminal the first time, before other innocent people are victimized. I appreciate your support of this legislation.

02/27/01

Subject: **Halford Bills Enforce Victims' Rights, Expand DNA Registry**
Date: Tue, 20 Feb 2001 11:50:48 -0900
From: Laura Achee <Laura_Achee@legis.state.ak.us>
Organization: Alaska State Legislature
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Alaska State Legislature
Senator Rick Halford
District M

For Immediate Release: Feb. 20, 2001
Contact: Sen. Rick Halford, 465-4958

Halford Bills Enforce Victims' Rights, Expand DNA Registry

(JUNEAU) – Sen. Rick Halford (R-Chugiak) introduced two bills on Tuesday that will increase the chance of finding violent criminals through DNA registries, and ensure that victims of crime are informed and able to assert the rights guaranteed to them in Alaska's Constitution.

Senate Bill 99 would expand the state's convicted offender DNA registry to include samples from those convicted of burglary. DNA samples are now taken only from those convicted of a violent felony offense. Law enforcement officers search the registry when they have DNA evidence from violent crimes, but no clear suspect. Twenty-four states have expanded their registry to include burglary. Since many burglars go on to commit violent offenses, studies have shown that expanding the DNA registry would significantly increase the state's chances of catching violent criminals.

Senate Bill 105 would create an Office of Victims' Rights and a Victims' Advocate, designed to help guide crime victims through the legal process in the aftermath of a violent crime. The office would keep victims informed of their rights, could testify on their behalf in court, and could investigate cases where victims feel their rights have been denied.

"In 1994 voters approved an amendment to Alaska's Constitution that guarantees victims' rights, but simply passing an amendment is not enough," said Halford. "It is difficult for the victim of a violent crime to wade through our judicial system, which is full of technicalities and legal jargon. Many feel victimized twice – first by the criminal, then by the system. This office would ensure that victims' rights are protected."

Funding for the office would come from Permanent Fund Dividends forfeited by repeat criminals. The bill lowers the forfeiture requirement for misdemeanor offenders from three crimes to two, if one of the prior crimes is a felony. This would generate approximately half a million dollars each year in additional general fund revenue, more than enough to run the Office of Victim's Rights, said Halford.

SB 105 is similar to Halford's Office of Victims' Rights bill that unanimously passed the 21st Legislature, only to be vetoed by Governor Tony Knowles.

# # #

Alaska Civil Liberties Union

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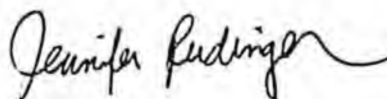
From: Jennifer Rudinger, Executive Director 
Date: Wednesday, February 21, 2001

Re: **SB 99: DNA collection from persons convicted of burglary**

The Alaska Civil Liberties Union opposes SB 99 and respectfully urges this Committee to put an end to the progressive expansion of DNA collection by the government. DNA collected from one person not only reveals personal information about that person (much of which has nothing to do with serving the needs of law enforcement), but it also reveals very personal information about that person's blood relatives. Unlike fingerprinting, which *only* reveals information that can be used for identification purposes, DNA gives the government control over a great deal of personal, private information about anyone related to the sample source. Therefore, expansion of the government's power to collect DNA from its citizens – even people convicted of crimes – should not be taken lightly. SB 99 proposes to invade the privacy of innocent people, and the government's only justification is that burglars *might* later commit violent crimes in which they leave DNA evidence at the crime scene.

To give the Committee some background, DNA testing and profiling are becoming increasingly more common. States across the country and the federal government are expanding the scope of their DNA data banks as scientific knowledge about the content of this genetic material is growing by leaps and bounds.

In October 1998, the FBI opened a national database that brings together the DNA records from all 50 states and the federal government into one centralized system, known as CODIS (Combined DNA Index System). If this trend is allowed to continue, the most intimate and personal information about each individual could routinely become a matter of public record, to be used and abused at the state's discretion.

Initially, these DNA storehouses were created to house information about convicted sex offenders exclusively. The argument was that sex offenders were especially prone to recidivism, typically left DNA evidence at the crime scene, and hence, were important to identify. Whether or not that argument was sufficient, we were assured at the time that only convicted sex offenders would be tested, and the information gleaned from these tests would be used by law enforcement officials strictly for identification purposes.

But it is often the case that information initially collected for one, limited purpose is before long used for many other purposes. Slowly and inexorably, the pool of people being tested, and the range of uses for the data, has been expanding, raising grave concerns for personal privacy. In less than a decade, law enforcement officials across the country have gone from advocating collection of DNA from only convicted sex

offenders, to all violent offenders, to all burglars, to all persons convicted of any crime, to all juvenile offenders. In many states, the DNA record is maintained even if a conviction is overturned.

Louisiana has gone a step further. A new state law will collect DNA data from everyone *arrested* for a felony crime -- before they have been convicted. In Louisiana, the record can be kept even if the person is found innocent. Former U.S. Attorney General Janet Reno asked the National Commission on the Future of DNA Evidence to look into the possibility of applying this concept across the country. In December 1998, New York City Police Commissioner Howard Safir jumped on the bandwagon, proposing the same idea. And New York's Mayor Rudy Giuliani not only voiced his support for the proposal, but went so far as to say that he would support the collection of DNA samples from all babies at birth, giving the city a genetic database of all its citizens.

The collection of DNA samples and the creation of DNA data banks have legitimate and vital medical, scientific and forensic purposes. Research can lead to treatments and even cures for many genetic diseases. DNA can prove that an individual was at the scene of a crime. It can also prove the innocence of a suspect, preventing terrible miscarriages of justice. DNA can even be used to correct wrongful convictions based upon an erroneous identification (although law enforcement and prosecutors are decidedly less enthusiastic about this use).

But it is equally clear that there is tremendous potential for abuse. The vast amount of information to be gleaned, the incredible longevity of DNA samples, and the ease with which DNA databases can be shared and accessed raise grave privacy, equality and due process concerns. Though DNA has been touted as a high-tech equivalent to fingerprints, this comparison is dangerously misleading. Where fingerprints can be used for identification purposes only, DNA can provide insight into a breathtaking wealth of singularly private information -- information about a person's ethnicity, family relationships, family history and the likelihood of getting some 4,000 genetic conditions and diseases. This information belongs to each individual, not the government. Further, geneticists are constantly increasing the database of information that can be gleaned from DNA -- some even claim that there are genetic markers for "criminal tendencies," sexual orientation, substance abuse, etc. The possibilities -- and thus the dangers -- are endless.

Today, the growing law enforcement databases raise the immediate specter of widespread discrimination. Given the over-targeting of Alaska Natives, African Americans, Latinos and other minorities within the criminal justice system nationwide, the government will have the disproportionate power to track millions of people of color.

Now the sponsor of SB 99 wants the Alaska Legislature to expand DNA sampling to include convicted burglars. It will help identify more violent criminals in the future, proponents say. Claiming that this is a minor and necessary expansion of the present system, proponents ask, "What's the harm?"

Because genetic information pertains not only to the individual whose DNA is sampled, but to everyone who shares in that person's blood line, potential threats to genetic privacy posed by their collection extend well beyond the millions of Americans whose samples are currently on file. Moreover, there is no requirement in SB 99 or in the Alaska Statutes that the DNA sample from which genetic information is taken be destroyed. This allows for the future possibility that all of the information could be used in other ways that we cannot even anticipate.

There is a long and unfortunate history of despicable behavior by governments toward people whose genetic composition has been considered "abnormal" under the prevailing societal standards of the day. While the FBI states that this information will be used for limited forensic purposes, the history in our country is that information compiled for one purpose will be used for another. For example, Social Security numbers were initially intended only for use as an aid tracking social security payments but are now a universal identifier. Another example, Census records created for general statistical purposes were used to round up innocent Japanese Americans and place them in internment camps during World War II.

Your constituents throughout Alaska are concerned about the government's ever-increasing control over their personal information, and their concerns cross party and ideological lines. The Alaska Civil Liberties Union fields inquiries virtually every week regarding the government's demand for personal information – Social Security numbers, Census information, background checks, DNA and genetic information, etc. Almost every week, Alaskans voice concerns that the government cannot be trusted to keep this information confidential or to limit its use to the initial purpose for which it is given. And we agree. Your constituents are right.

In conclusion, SB 99 does not "only" affect burglars – it affects their relatives, who are law-abiding citizens innocent of any crime. And the government's proposed justification for collecting DNA from burglars just doesn't fly in Alaska – we do not take DNA from people who have never committed a violent crime on the theory that someday they *might* commit a violent crime. If so, where will this end?

Please end it here and now. Please do not pass SB 99 out of Committee.

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Anchorage Daily News

Dogged detective work, DNA crack 5-year-old killing

By Sheila Toomey
Daily News Reporter
(Published October 31, 2000)

They found her body on a Sunday morning five years ago, wearing a purple tank top and silver necklace, dumped at the edge of Ship Creek where it runs through the warehouse district near Yakutat Street.

They identified her from her tattoos and her jail record: Doris Ann Hainta, 34, a longtime street hooker carrying a double load of drug and alcohol addiction. Everybody called her Sunny, but someone strangled her.

Anchorage police detective Scott Jessen traveled to North Carolina to confront Eugene Poirier with evidence against him in the killing of Doris Ann Hainta. Poirier eventually admitted strangling Hainta. (Jim Lavrakas / Anchorage Daily News)

Homicide investigators worked the slim leads they had as hard as they could. A witness saw a blue van backing to the edge of the creek and a man dumping something there. Police took plaster casts of tire tracks and crawled around on their hands and knees taking paint scrapings from a post and hoping to pick a bit of evidence from the muddy ground.

They spent weeks talking to prostitutes and their customers, checking alibis and stopping blue vans. After a while, the investigation lagged. She was probably killed by someone who bought her services, police figured, someone with no other connection to her, the toughest kind of homicide to solve.

But Anchorage police had an ace up their sleeve. Hainta had been raped or had consensual sex shortly before she died, so if the police ever identified a suspect, they had a DNA sample.

Last month, technicians at the state crime lab matched the DNA to a man in North Carolina. And on Monday the Anchorage district attorney charged Eugene Poirier, 33, with first-degree murder. An arrest warrant with bail set at $1 million will be faxed south and served on Poirier at the Nash Correctional Facility, where he is doing 22 years for a murder he committed after leaving Alaska.

Assistant District Attorney Adrienne Bachman said Alaska will seek to extradite Poirier and will try him for Hainta's death. Charging documents filed Monday say he has confessed to strangling her in the back of a blue van he used in his carpet business.

If Poirier is convicted here, he will be returned to North Carolina to serve out his sentence there then returned to do his Alaska time, Bachman said.

In Oklahoma, where Hainta was born, her sister Emma Hainta was surprised to hear that anyone in

Anchorage still cared about solving her sister's slaying and was pleased someone's been charged in Sunny's death.

The family often tried to talk Sunny into coming home. She became a prostitute in her teens and seemed unable to get out of the life, Emma Hainta said. She came to Alaska in the mid-1980s to start a new life. But it didn't work.

"She had no confidence," Hainta said. "She didn't have the drive to do anything different."

The family, which includes an ex-police chief, didn't approve of her life but they loved and accepted her, Hainta said.

"I always thought it would be AIDS that would get her. I was prepared for that. I knew one day she would be knocking at my door."

The Hainta case, old and cold, was solved because police officers stationed at opposite sides of the continent made an extra effort and because in March the Alaska State Scientific Crime Detection Laboratory began using DNA technology capable of making positive identifications.

The first break was a 1998 computer message from Det. Sgt. Julie Gibson of the Iredell County sheriff's office, a blind query to police departments in cities where Poirier had lived before he showed up in North Carolina in 1997. A 16-year-old girl, Christy Rambo, a neighbor of Poirier and his wife, had been strangled in August of that year, her body dumped by the side of a country road about five miles from the trailer park where she and Poirier both lived. She'd been doused with gasoline and set on fire.

Poirier was one of several suspects. Could Anchorage police check him out? Gibson asked.

Poirier's name had not surfaced in the Hainta investigation, but when Sgt. Mike Grimes, then head of homicide, looked at him, bells rang. He owned a blue van. His uncle had a business close to where Hainta's body was found.

If Anchorage had no suspects in Hainta's death, Iredell County had too many in the Rambo case: her boyfriend, another man she told friend had made threats, and a man she said had raped her and was set to testify against the following week. Poirier and his wife were casual friends with Rambo, and he had been seen talking to her in his driveway before she disappeared. But he wasn't at the top of the list until he started acting "pretty odd," Gibson said. "He pushed himself into the investigation. We had to almost push him away from us. He just stayed in our face ... so we paid him a little more attention."

Then Poirier turned up on a convenience store security video buying gasoline about an hour after Rambo disappeared, less than an hour before someone spotted her still-burning body.

He eventually admitted the killing but refused to give any details, Gibson said. He was charged with first-degree murder, a death penalty case. But questions were raised about the admissibility of the confession, and last October the district attorney accepted a plea to second-degree murder. Because he had no prior record, Poirier got the minimum mandatory sentence, 22 years without parole.

While Poirier was still awaiting trial, Anchorage police detective Larry Arend, who was originally in charge of the Hainta case, asked Iredell sheriffs if they could send a sample of Poirier's blood north. They could.

At the time, Alaska's crime lab was certified only for six-point DNA matches. They got a six-point match on Poirier, Bachman said. But legal identification in criminal cases requires 13 points of match. It cost from $1,000 to $2,000 to have the test done in a private lab. Anchorage police don't have the money to do them all, said Anchorage detective Scott Jessen, who took over the case when Arend retired.

Poirier was in prison, not a danger to other women and the test could wait, police reasoned.

By March, the crime lab staff was trained and the DNA operation accredited. And it had a one-year backlog of cases involving violent crimes. Each test takes six weeks, said lab director George Taft. Jessen pushed. In September, the Hainta results were certified: Poirier was a match.

With what looked like a solid case, Chief Duane Udland sent Jessen to North Carolina.

"Gene, howya doing?" Jessen said to Poirier. "I'm from Anchorage."

In an office at the prison, Poirier denied knowing Hainta or even where Yakutat Street was. Jessen laid the DNA report on a table in front of him. "This line is semen from Doris," he said. "This is your blood. They match."

It took awhile, but eventually Poirier said he killed Hainta. He picked her up on Fourth Avenue, near the old Hub Bar, according to the account of his confession in the charging document. After having sex, Hainta "spazzed out" on him, he told Jessen. She wanted more money and tried to hit him with a tack hammer. He took the hammer away from her, wrapped an electric cord around her neck and strangled her.

Jessen isn't finished. Poirier spent a lot of time driving around the country. With two murders known, he wonders, what are the chances of more unsolved cases out there? Both victims were strangled, both were Native American -- Hainta was Kiowa. That's the kind of detail the FBI puts in a computer. Jessen has asked them to check their files.

Reporter Sheila Toomey can be reached at stoomey@adn.com or 257-4341.

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STATE DNA DATABASE LAWS
QUALIFYING OFFENSES

State	*Sex Offenses*	*Offenses Against Children*	*Murder*	*Assault & Battery*	*Robbery*	*Kidnapping*	*Burglary*	*Attempts*	*Juveniles*	*All Felonies*
ALABAMA	✓	✓	✓	✓	✓	✓	✓	✓		✓
ALASKA	✓	✓	✓	✓	✓	✓		✓	✓	
ARIZONA	✓	✓	✓	✓	✓		✓	✓	✓	
ARKANSAS	✓	✓	✓	✓	✓	✓			✓	
CALIFORNIA	✓	✓	✓	✓				✓	✓	
COLORADO	✓	✓	✓	✓	✓	✓	✓		✓	
CONNECTICUT	✓	✓				✓				
DELAWARE	✓	✓						✓		
FLORIDA	✓		✓	✓	✓		✓	✓	✓	
GEORGIA	✓	✓	✓	✓	✓	✓	✓	✓		✓
HAWAII	✓	✓	✓							
IDAHO	✓	✓	✓	✓	✓			✓	✓	
ILLINOIS	✓	✓	✓		✓	✓	✓	✓	✓	
INDIANA	✓	✓	✓	✓	✓	✓	✓			
IOWA	✓		✓	✓		✓	✓			
KANSAS	✓	✓	✓					✓	✓	
KENTUCKY	✓									
LOUISIANA	✓	✓	✓	✓		✓		✓	✓	
MAINE	✓	✓	✓	✓	✓	✓	✓	✓	✓	
MARYLAND	✓		✓	✓	✓					
MASSACHUSETTS	✓	✓	✓	✓	✓	✓	✓			

State	*Sex Offenses*	*Offenses Against Children*	*Murder*	*Assault & Battery*	*Robbery*	*Kidnapping*	*Burglary*	*Attempts*	*Juveniles*	*All Felonies*
MICHIGAN	✓		✓			✓				
MINNESOTA	✓		✓	✓	✓	✓	✓	✓	✓	
MISSISSIPPI	✓	✓								
MISSOURI	✓	✓	✓	✓		✓				
MONTANA	✓	✓	✓	✓	✓	✓		✓	✓	
NEBRASKA	✓	✓	✓							
NEVADA	✓	✓	✓	✓			✓	✓		
NEW HAMPSHIRE	✓								✓	
NEW JERSEY	✓	✓	✓	✓		✓		✓	✓	
NEW MEXICO	✓	✓	✓	✓	✓	✓	✓		✓	✓
NEW YORK	✓		✓	✓	✓	✓	✓			
NORTH CAROLINA	✓		✓	✓	✓	✓				
NORTH DAKOTA	✓	✓						✓		
OHIO	✓	✓	✓			✓		✓	✓	
OKLAHOMA	✓	✓	✓	✓						
OREGON	✓	✓	✓				✓	✓	✓	
PENNSYLVANIA	✓	✓	✓					✓	✓	
RHODE ISLAND	✓	✓	✓							
SOUTH CAROLINA	✓	✓	✓	✓	✓	✓	✓		✓	
SOUTH DAKOTA	✓	✓	✓	✓	✓	✓	✓	✓		
TENNESSEE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
TEXAS	✓	✓	✓	✓			✓		✓	
UTAH	✓	✓	✓	✓		✓				

State	Sex Offenses	Offenses Against Children	Murder	Assault & Battery	Robbery	Kidnapping	Burglary	Attempts	Juveniles	All Felonies
VERMONT	✓	✓	✓	✓	✓	✓	✓	✓		
VIRGINIA	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
WASHINGTON	✓	✓	✓	✓	✓	✓		✓	✓	
WEST VIRGINIA	✓	✓	✓	✓	✓	✓	✓			
WISCONSIN	✓	✓	✓	✓	✓	✓	✓			✓
WYOMING	✓	✓	✓	✓	✓	✓	✓	✓		✓
TOTALS	50	41	44	35	27	30	24	28	23	7

PROFILES IN DNA
Vol.3, No.1

FEATURE ARTICLES

DNA Typing in Action: Databasing in the Commonwealth of Virginia

Editor's Note: To highlight progress in implementation of STR typing and DNA databasing, Profiles in DNA introduces a new feature spotlighting work by various states in the U.S.A. and other countries to solve and prosecute crimes through DNA typing. In this issue, we focus on the tremendous success that the Commonwealth of Virginia has achieved not only in the size of their growing database but also in terms of solving several violent crimes and preventing others through "hits" in that state's DNA database.

Figure 1. The new Central Laboratory of the Virginia Division of Forensic Science is located in downtown Richmond, Virginia.

The Commonwealth of Virginia was the first state to pass a DNA databasing law in 1989 because Virginia's General Assembly recognized that DNA databasing would be a powerful technology for prosecutors and a tremendous investigative tool.

In 1989 the Commonwealth of Virginia was the first state in the U.S. to pass a DNA databasing law, which required only certain sex and violent offenders to provide samples for inclusion in a DNA databank. In 1990, the law was expanded to include all felons. However, at that time, funding was granted only to type the samples that fell under the original 1989 statute. Six years later the law was expanded to include juveniles over the age of 14 who were found guilty of any crime that would constitute a felony if that crime were committed by an adult. DNA typing is performed by the Virginia Division of Forensic Science (DFS), which is a nationally accredited forensic laboratory system serving all state and local law enforcement agencies, medical examiners and Commonwealth's Attorneys in Virginia but is not part of any law enforcement agency. To get an inside perspective on the success of Virginia's program, we spoke to three key figures in this state's database implementation: Paul Ferrara, Director of the Virginia DFS; Jeffrey Ban, Forensic Biology Section Chief; and Kevin McElfresh, Vice President of Operations, The Bode Technology Group. Below are excerpts from our conversations with these men.

PAUL FERRARA, DIRECTOR, VIRGINIA DIVISION OF FORENSIC SCIENCE

Paul Ferrara joined the DFS 28 years ago and has been the Director since 1985. Under his leadership, the DNA typing and databasing program in the Commonwealth of Virginia has grown to become the largest database in the U.S.

Could you provide some history of DNA typing in Virginia?

Dr. Ferrara: The Commonwealth of Virginia was the first state to pass a

DNA databasing law in 1989 because Virginia's General Assembly recognized that DNA databasing would be a powerful technology for prosecutors and a tremendous investigative tool. One year later (in 1990) they expanded the law, and sample collection began in earnest.

In a landmark case, DNA testing led to the conviction of Timothy Spencer for raping and murdering four women during a 10-week period in 1987. The Spencer case is notable for a number of reasons. Spencer was the first criminal convicted of capital murder on the basis of DNA evidence. Prior to committing these rapes and murders, Spencer had been convicted of an earlier burglary charge. Had he been in the database from his burglary charge, he would have been identified after the first rape and murder. Thus, his additional crimes would have been prevented. The case graphically demonstrated the efficacy of DNA typing technology. Further, the case established part of the rationale for the General Assembly to pass a resolution requesting that the Virginia State Crime Commission perform a study to determine whether expansion of the database to include other convicted felons (e.g., burglars) would be a worthwhile effort. Based on the report of the Commission, the statute was expanded to include all felons in the database.

In the early years of the database--from 1989 to July 1998--the database consisted of restriction fragment length polymorphism (RFLP) profiles. The first success of the database came in August 1993 with less than 1,000 profiles in the database. A "cold hit" (i.e., when there is no suspect for a crime, but DNA from biological material taken from the crime scene matches that of a convicted felon in the database) was identified as a known sex offender. This case was the first demonstration of the power of felon databases when there is no suspect known for a given crime.

While that early database topped out with less than 15,000 profiles and 31 cold hits made, more than 180,000 samples were collected over that 9-year period. In July 1998 funding was granted for using STR typing for all of the samples to be entered into the database. A contract was arranged with The Bode Technology Group to work on the large number of samples waiting to be included in the database. From July 1998 to the present, DNA typing using the *GenePrint*® PowerPlex™ 1.1 System has been performed for all samples in the database.

How successful has Virginia's database been?

Dr. Ferrara: The DNA typing and databasing program in Virginia has been extremely successful. What is truly remarkable is how much was accomplished in the first six months that STR typing was performed. In the time from July 1998 to the end of the year, 30,000 profiles had been generated, and there are over 55,000 profiles at present. In the first four months of 1999, there have been 2 hits in January, 3 in February and 7 each in both March and April. The contractor, The Bode Technology Group, is adding to the database at a rate of approximately 8,000 per month. A best guess, based upon the current rate of expansion of the database and hits generated, is that there may be as many as 100 hits on the database in 1999. The implementation of the database provides tremendous savings in terms of police investigative time and prevention of future crimes. The savings in terms of lives and investigative time are inestimable.

The implementation of the database provides tremendous savings in terms of police investigative time and prevention of future crimes. The savings in terms of lives and investigative time are inestimable.

Have you been surprised by the results with Virginia's database?

Dr. Ferrara: In terms of the number of hits on the database, we are not surprised. The number of hits is strictly a function of the size of the database. What has been fascinating and somewhat remarkable is that greater than sixty percent of the hits from violent offender cases match database samples from convicted burglars--not violent offenders. This points to the fact that many violent offenders have been guilty of earlier nonviolent property crimes. Thus, a database that does not include property crime offenders limits its overall efficacy.

To what do you attribute the success of the database?

Dr. Ferrara: Clearly, the success of the database rests on two factors: first, the size of the convicted felon database, and second, concentration on DNA typing of crime scene material from cases where there is no suspect. Although there is a tendency to focus on cases where there are suspects going to trial, we must run biological samples from cold crime scenes. It's a problematic situation. The database has grown, but we must redouble our efforts to run crime scene samples soon after a crime has been committed.

There is a serious problem we must address. The demand for DNA testing is outstripping the ability of the laboratory to perform the tests. With approximately 200 cases received every month, the backlog increases. While the crime rate may be constant or decreasing, the number of samples to be analyzed is increasing.

What explains this increase in the number of samples?

Dr. Ferrara: Cases are much more complex today than ever before. Because the STR technology is so sensitive, we are able to perform testing on a much greater number of samples that the earlier technology could not handle. With STR analysis, a case examiner usually needs to process about ten, and sometimes as many as 20-50, samples per case.

How and when will the capabilities of laboratories in the U.S. meet the

February 19, 1998

DNA Databanks Giving Police Powerful Weapon: The Instant Hit

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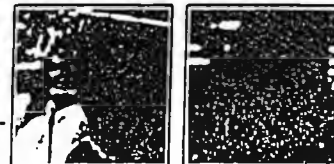

By CAREY GOLDBERG

BOSTON -- Of all the new thrills that DNA analysis offers forensic scientists, nothing seems to beat what they call a "cold hit": when a computer discovers the identity of a killer or rapist by matching DNA from blood, semen or saliva left at a crime scene with a DNA profile in a database. A criminal is fingered by his own genes.

Until now, cold hits have come sporadically, mainly in several states where DNA forensic work is most advanced, totaling about 200 nationwide. But federal and state experts say they will soon be cropping up much more often.

In the last several weeks, they say, two DNA logjams have been broken. The FBI and state laboratories have finally set new technical standards for testing DNA strands, allowing the development of a national system of quicker, cheaper testing to steam ahead. And the links of that system are starting to be hooked up: In December, eight states in the DNA vanguard began using FBI software that lets them pool their data on line for the first time, enabling them to identify criminals across their borders. Within minutes, they scored their first hit, linking a convicted sex offender in Illinois to a 1989 rape and attempted murder in Wisconsin, the bureau said.

"It's starting to grow geometrically," said David Coffman, the DNA database administrator for Florida, which has chalked up nearly half the country's hits. "For the first time, DNA labs are leading the investigators to the right person," as opposed to testing the DNA of known suspects.

The largest hurdle to establishing an American DNA database like the pioneering one in Britain, which holds hundreds of thousands of samples and has scored thousands of hits, is money -- for adding equipment and personnel, gathering hundreds of thousands of samples, analyzing and entering them, plowing through current backlogs and converting existing databases to new technology.

"It comes down to a cost-benefit analysis," said Christopher Asplen, an

assistant U.S. attorney who is executive director of the National Commission on the Future of DNA Evidence, which Attorney General Janet Reno recently created. "How much money are we willing to put into the system to reduce the backlog so that we can use DNA more quickly and more effectively to solve and prevent crimes?"

The mounting momentum behind DNA databases, however, is also pushing forward objections to DNA evidence. Last week in Massachusetts, for example, a judge halted the gathering of blood samples for DNA profiling from thousands of prison inmates, probationers and parolees after several sued the state, arguing that it was an illegal search and seizure performed without proper safeguards.

Although similar challenges in other states have failed, civil liberties questions continue to come up as states move ahead, including issues of who, exactly, must submit to testing, and who can have access to the data.

In the aftermath of the DNA debacle at the O.J. Simpson murder trial, in which the defense accused the Los Angeles Police Department of contaminating DNA evidence, concerns also linger over whether the police and laboratory workers are being properly trained to handle such potentially damning evidence.

Still, financing is a burning question for DNA overseers like Dr. Paul Ferrara of Virginia's Division of Forensic Science, whose groundbreaking DNA program has been given a $10 million budget for the next three years and who believes it will take $500 million to establish a full-fledged national databank.

"We still have backlogs of six months or more before we can get to every case," Ferrara said. "How many crimes that we took a year to solve could have been solved in a week? And how many further offenses, rapes or murders, were committed by that individual in the meantime?"

In Florida, Coffman recalled, a convicted rapist was just eight days away from being paroled in 1995 when his DNA sample was finally entered into the databank. It was found to match evidence left at the horrific rape, mutilation and murder of another woman more than three years earlier.

That is the difference DNA databanks can make, said Walter Rowe, a professor of forensic sciences at George Washington University who has advised the federal government on dispensing some of the $25 million that Congress allotted to DNA databases in 1994.

A national database, "God knows, may turn out to have an enormous impact," Rowe said, "if you reflect that rapists tend to be repeaters and studies have shown that most of the violent crime is committed by a very small number of criminals. If we're able to identify these guys and send them away, or if, instead of convicting the guy for one sexual assault we get him for 10 and he goes away for the rest of his life, think about the impact that will have on the safety of citizens."

Indeed, no one, not even those who have challenged DNA sample-gathering in court, deny that the databases can be heaven-sent crime-fighting tools. And DNA can work on prisoners' behalf as well. Already, 53 convicts have been exonerated after DNA testing was applied to the evidence in their cases, said Barry C. Scheck, whose Innocence Project at Yeshiva University's Benjamin Cardozo School of Law helped many of them gain freedom.

Rather, the main lingering questions about DNA testing and databases concern who should have to give samples and how those samples are handled.

The very existence of a DNA database smacks more of a Big Brother-ish assault on privacy than the existence of the national computerized network of fingerprints, civil libertarians say. Taking blood is much more invasive than fingerprints, they point out, and DNA carries so much more information -- information subject to abuse by insurance companies or even geneticists seeking the gene for something like pedophilia.

Furthermore, said Benjamin Keehn, a Boston public defender representing some of the inmates who have challenged the DNA collection here, "It's a very dangerous slippery slope" to round up thousands of convicts, probationers and parolees, as Massachusetts was doing, on the argument that they are likelier to commit a crime.

"Why not round up poor people?" Keehn asked. "Poor people are more likely to commit a crime, so shouldn't we have their DNA on file? Of course, there are benefits every time you get a cold hit. There are going to be dramatic success stories. But where does it stop? Why not take DNA samples at birth?"

In South Dakota, DNA samples are taken upon arrest, like fingerprints. Virginia, which has the most comprehensive database nationwide, with 160,000 samples gathered though only 10,000 have been analyzed, now gathers samples from all convicted felons, and even some juveniles.

And that, Ferrara argued, is the way to go. More than half of his cold hits from the crime scenes of rapes and murders came from felons who had previously been convicted only of breaking and entering or burglary, he said.

Scheck, who helped defend O.J. Simpson, advocates that states write into their DNA database laws that the data can be used by law enforcement agencies "for identification purposes only" to avoid abuses. Many states, like Massachusetts, have left their language more vague.

Two states, in fact, have not even passed database laws. But the two, Vermont and Rhode Island, are expected to finally join the other 48 this legislative session. Many other states have simply not allocated much money to their DNA databases, so large backlogs of unanalyzed samples have developed.

Even those that have kept up, however, will now have to start converting their samples from the old technique, known as Restriction Fragment Length Polymorphism, to a new method, Short Tandem Repeat, or STR. That faster, less expensive method looks at areas of the DNA strand that are generally considered something like "junk" DNA and do not determine an individual's traits.

It is a giant conversion task, experts say, but promises a great payoff. Technology has so advanced from the days when testing each DNA sample took weeks and cost several hundred dollars, they say, that in the near future, sample analysis will be largely automated, take only hours and eventually cost as little as $10.

The technology has also advanced in that it can analyze far tinier quantities of biological evidence -- even the saliva from a cigarette butt or envelope flap and the sweat from a hatband, said Terry Laber, supervisor of the DNA unit of the Minnesota Bureau of Criminal Apprehension.

In some ways, he said, DNA evidence has already surpassed fingerprints in usefulness, and Minnesota's state crime laboratory now does DNA testing at all crime scenes, including mere burglaries.

Whether or not it beats fingerprinting, DNA evidence is especially valuable because of the types of crime scenes where it is usually found, said Harlan Levy, a former New York City prosecutor who wrote "And the Blood Cried Out" (Avon 1997) about the power of DNA evidence.

"They're murder cases and sexual violence cases," he said. "The kinds of cases where people care very dramatically about identifying the people who committed them and getting them off the street. And DNA databanks make that possible."

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SB
103

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 103
() Publish Date:

Revision Date/Time (Note if correction):
Title: "An act relating to election campaigns and legislative ethics
Sponsor: Senate State Affairs
Requester: Senate State Affairs

Dept. Affected: Administration
BRU: Alaska Public Offices Commission
Component:
Component Number: 70

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	10.0	10.0	0.0	0.0	0.0	0.0
Travel	2.1	0.0	0.0	0.0	0.0	0.0
Contractual	18.7	23.2	23.2	23.2	21.0	21.0
Supplies	0.6	0.6	0.6	0.6	0.6	0.6
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**31.4**	**33.8**	**23.8**	**23.8**	**21.6**	**21.6**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF	31.4	33.8	23.8	23.8	21.6	21.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	**31.4**	**33.8**	**23.8**	**23.8**	**21.6**	**21.6**

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

See Page 2

Prepared by: Brooke Miles
Division: Alaska Public Offices Commission
Phone: 276-4176
Date/Time: 2/21/01 12:00 AM
Approved by: Jim Duncan, Commissioner
Agency: Department of Administration
Date: 2/22/01

For distribution information, call the Governor's Legislative Office

(Rev 1/26/2000 OMB)

Fiscal Note Analysis
SB 103

This is staff's estimate of the fiscal impact of SB 103. The Commission will not have an opportunity to review the proposed legislation and staff's recommendations for a fiscal note until their next meeting on March 28 – 30, 2001.

SB 103 increases the amount of surplus campaign goods that may be taken by a candidate for personal use from $2500 to $5000 and provides that candidates may also retain campaign photographs, seasonal greeting cards and campaign signs. It also removes legislators from the restrictions on using public resources to support or oppose ballot propositions, amends the definition of "contribution" to exclude the professional services of accountants and attorneys given to political parties, and provides that issue polls are not contributions when given to a candidate unless they are specifically designed to benefit the candidate.

This draft fiscal note reflects the costs to the Commission for conducting statewide seminars to educate candidates, groups, and political parties about the changes; revising manuals, forms, and database structures; and responding to informal inquiries advisory opinion requests, and complaints.

Personal services costs reflect overtime for current employees, or part-time temporary clerical support to amend reporting materials and conduct training for the Anchorage municipal elections and the 2002 state and municipal election cycles.

Alaska State Legislature

Official Business

State Capitol
Juneau, AK 99801-1182

Senate Bill 103 "An Act relating to election campaigns and legislative ethics; and providing for an effective date."

SPONSOR: Senate State Affairs Committee

SPONSOR STATEMENT:

Senate Bill 103 is largely a clean-up bill to address conflicts and concerns that have arisen in the campaign finance and legislative ethics statutes. It also puts into law administrative rulings made by the Alaska Public Offices Commission (APOC) and informal advice given by the Legislative Ethics Committee. This legislation is different from last year's HB 225. It does not contain what were the more controversial elements of that bill.

SB 103 makes the following changes:

- Clarifies that multiple groups controlled by a single candidate be treated as a single group for purposes of the contribution limit in AS 15.13.070(b)(1)
- Adds thank you advertisements to list of permissible uses of unused campaign funds
- Increases the total value of personal property which may be retained by a candidate
- Provides that money held by public entities may be used to influence the outcome of a ballot proposition or question under limited circumstances
- Clarifies and further defines contributions
- Adds new exceptions to and clarifies the prohibition on use of public assets and resources by legislators and legislative employees for nonlegislative purposes and certain previously prohibited public political uses

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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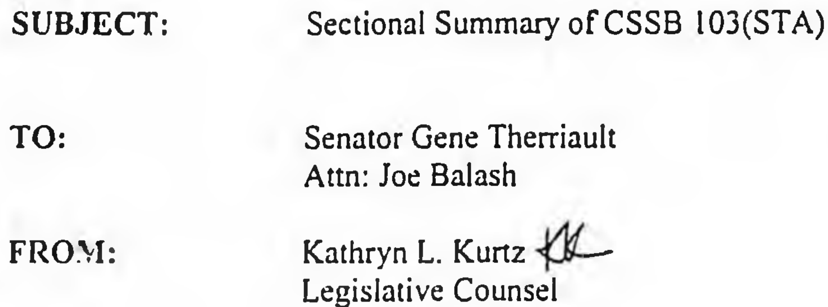
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM March 7, 2001



SUBJECT: Sectional Summary of CSSB 103(STA)

TO: Senator Gene Therriault
Attn: Joe Balash

FROM: Kathryn L. Kurtz
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Permits candidates to register multiple groups to support them but specifies that all groups controlled by a single candidate be treated as a single group for purposes of the contribution limit in AS 15.13.070(b)(1).

Section 2. Adds thank you advertisements as a permissible use of unused campaign funds. Eliminates transfers of leftover campaign funds to public office expense term account reserves, but retains provision allowing transfers to public office expense term (POET) accounts. Limits transfers to POET accounts to $10,000 for candidates for the house of representatives and $20,000 for candidates for the senate. Requires that funds left in a POET account at the end of a candidate's term of office be disposed of by donating them to a political party, the state's general fund, a municipality, the federal government, or a 26 U.S.C. 501(c)(3) charitable organization, or by repaying contributions to contributors.

Section 3. Increases the total value of personal property which may be retained by a candidate after a campaign from $2,500 to $5,000. Specifies that campaign photographs and seasonal greeting cards may be retained and used. Provides that campaign signs prepared for an election that has already taken place have no monetary value.

Section 4. Amends AS 15.13.145(b), which restricts use of state money for influencing the outcome of elections, to reflect the change in section 6 of this bill permitting

legislators and legislative employees to use governmental resources to support or oppose a proposed amendment to the state or federal constitution.

Section 5. Excludes from the definition of campaign contribution: (a) services provided by volunteers to political parties other than professional services for which the individual would ordinarily be paid a fee or wage, (b) two or fewer mass mailings by each political party before each election, and (c) certain poll results.

Section 6. Adds new exceptions to and clarifies the prohibition on use of public assets and resources by legislators and legislative employees for nonlegislative purposes, including: use of staff to prepare and send out seasonal greeting cards, transporting computers or other office equipment owned by a legislator but used primarily for a state function, use of photographs of legislators, reasonable use of the Internet except for election campaign purposes, and solicitation and acceptance in state facilities of donations to recognized non-political charitable organizations. Increases the period before and after session during which legislators may use their private office in Juneau for nonlegislative purposes from five days to ten days.

Also adds a number of exceptions to and clarifies the prohibition on use of public assets and resources for certain previously prohibited political uses, including: use of photographs, and support or opposition of constitutional amendments (but not to solicit contributions for a proposed constitutional amendment). Increases the period before and after session during which legislators may use their private office in Juneau for nonlegislative purposes from five days to ten days.

Section 7. Repeals AS 15.13.116(d), the section providing for POET reserve accounts.

Section 8. Transitional provision requiring candidates elected before the effective date of the act to transfer any funds held in a POET reserve account to a POET account before January 1, 2002.

KLK:glc
01-224.glc

SB
105

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 105
() Publish Date:

Revision Date/Time (Note if correction):
Title: Victims' Rights / Prisoners' PFDs
Sponsor: Senator Halford
Requester: Senate Judiciary Committee

Dept. Affected: Revenue
BRU: Revenue Operations
Component: Permanent Fund Dividend
Component Number: 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

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

As it relates to the Alaska Permanent Fund Dividend Division, this legislation expands the reach of state statute to withhold dividends from Alaskans convicted of criminal offenses. The legislation (Section 9, AS 43.23.005(d)) would expand the number of non-eligible Alaskans to include people convicted or incarcerated on a misdemeanor charge during the dividend eligibility year if they also have a prior conviction for a felony. Existing statute already denies the dividend to applicants convicted or incarcerated during the eligibility year on a felony charge or his or her third misdemeanor.

The Dividend Division does not expect this legislation to have a fiscal impact on the operating budget of the dividend program.

It is not possible to estimate the number of applicants who might lose their dividend eligibility under this legislation. However, it should be noted that denying dividends to some of the applicants covered by this legislation could actually deny the funds to creditors of those applicants, including the Child Support Enforcement Division, state student loan program, private businesses and others.

Prepared by: Nanci A. Jones, Director — Phone 465-4785
Division: Permanent Fund Dividend Division — Date/Time Feb. 22, 2001, 1 p.m.
Approved by: Larry Persily, Deputy Commissioner — Date Feb. 24, 2001
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

(Rev 2/7/2001 OMB)

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 105
() Publish Date:

Revision Date/Time (Note if correction):
Title "An Act relating to victims' rights; . . .an office of victims' rights; . . . compensation of victims of violent crimes . . ."
Sponsor Senator Halford
Requester Senate Judiciary Committee

Dept. Affected: Law
BRU Criminal Division/Civil Division
Component Human Services
1st-4th Jud Dist, Crim Apps/Spec Lit
Component No. 2198-99/2261/79/01/03/06

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	********	********	********	********	********
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

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)*

SB 105 establishes in the legislative branch the Office of Victims' Rights, directed by the victims' advocate, effective July 1, 2002. The victims' advocate will advocate on behalf of crime victims in felony cases in the courts of the state and investigate complaints of crime victims in felony and certain class A misdemeanor cases that they have been denied their rights under the constitution and laws of the state.

The potential fiscal impact from enactment of this law on the Department of Law is dependent on the philosophy and depth of involvement of the victims' advocate. At a minimum, the length of time required for cases in which the victims' advocate participates will increase, simply by virtue of having an additional attorney involved. The potential that the victims' advocate will be at odds with the prosecutor over matters involving trial strategy, tactics, and plea negotiations would add additional time and expense. These costs are speculative, and the department cannot assign a cost without additional experience.

Prepared by: Joan M. Kasson — Phone 465-5370
Division: Attorney General's Office — Date/Time 2/27/01 12:15 PM
Approved by: Kathryn Daughhetee for Bruce M. Botelho, Attorney General — Date 2/27/01
Agency: Department of Law

For distribution information, call the Governor's Legislative Office

(Rev 11/2000 OMB)

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 105
() Publish Date:

Dept. Affected: Corrections
BRU: 271
Component: Administrative Services
Component Number: 697

Title: An Act relating to victims' rights; relating to establishing an office of victims' rights; relating to compensation....
Sponsor: Senator Halford
Requester: Senator Judiciary

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	43.5	43.5	43.5	43.5	43.5	43.5
Travel						
Contractual	0.5	0.5	0.5	0.5	0.5	0.5
Supplies	0.5	0.5	0.5	0.5	0.5	0.5
Equipment	2.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	47.0	44.5	44.5	44.5	44.5	44.5
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF	47.0	44.5	44.5	44.5	44.5	44.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL						

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Full-time	1	1	1	1	1	1
Part-time						
Temporary						

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

Section 9 of this legislation amends AS 43.23.005(d) which would deny PFD eligibility for people who are convicted and incarcerated for a misdemenaor and they had been previously convicted of a felony, or two or more misdemeanors. The Department of Corrections has previously asked for a Statistical Technician I position to accomodate appeals and information requests resulting from PFD denials. The data and word processing unit will be unable to carry out their daily operations if more appeals and computer programming are added without a position.

Prepared by: Candace Brower
Phone 465-4652
Division: Commissioner's Office
Date/Time 2/22/01 9:30 AM
Approved by: Margaret Pugh
Date 2/22/01
Agency: Department of Corrections

For distribution information, call the Governor's Legislative Office

(Rev 2/7/2001 OMB)

ALASKA STATE LEGISLATURE

Senator Rick Halford
President of the Senate

While in Session:
State Capitol
Juneau, AK 99801-1182
907-465-4958

While in Interim:
P.O. Box 670190
Chugiak, AK 99567
907-694-4958

Sponsor Statement
Senate Bill 105

"The Crime Victims' Rights and Advocacy Act of 2001"

On November 8, 1994, the voters of Alaska ratified an amendment to the Constitution of the State of Alaska, which provides specific rights to victims of crime. The overwhelming approval rate -- 86.6% in favor -- was testament of Alaskans' belief that:

> *"Crime victims, as defined by law, shall have the following rights as provided by law; the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication."*

---- ARTICLE I, SECTION 24, ALASKA CONSTITUTION

Passage of SB 105 will put in place a mechanism to guarantee the practical application of this very important Constitutional Amendment. It is time for victims to have advocacy when dealing with a judicial system so heavily weighted to the benefit of criminals, and based on a process replete with technicalities and legal jargon, rendering it virtually indecipherable to anyone other than the attorneys.

As was brought out in testimony on similar legislation last session, "While the criminals and the prosecution have their attorneys, the victims are too often left to sit alone in the shadow of justice." I urge your support for this legislation.

ALASKA STATE LEGISLATURE

Senator Rick Halford
President of the Senate

While in Session:
State Capitol
Juneau, AK 99801-1182
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Sectional Analysis

Senate Bill 105
"Office of Victims Rights"

Section 1 of the bill provides a short title.

Section 2 of the bill allows advocate to make statement at time of sentencing when requested by the victim.

Section 3 of the bill increases the compensation available to victims of crime under AS 18.67.

Section 4 of the bill brings the victims' advocate under legislative ethics.

Section 5 of the bill amends AS 24 by creating a new chapter dealing with the Office of the Victims' Rights which is created in the legislative branch. The following sections are created:

AS 24.65.010 creates the Office of Victims' Rights
AS 24.65.020 establishes appointment procedures
AS 24.65.030 establishes qualifications
AS 24.65.040 defines the term of office
AS 24.65.050 provides for removal of the Victims' Advocate
AS 24.65.060 lists the salary for the Victims' Advocate
AS 24.65.070 allows employment of staff and establishes their duties
AS 24.65.080 office space and administration for OVA
AS 24.65.090 requires advocate to adopt regulations
AS 24.65.100 establishes when the victims' advocate can act.
AS 24.65.110 delineates advocacy and access to records
AS 24.65.120 specifies how and when the advocate may investigate complaints of denial of crime victims rights
AS 24.65.130 provides subpoena power to victims' advocate
AS 24.65.140 requires consultation with a justice agency prior to report
AS 24.65.150 specifies the advocate's duties upon completion of investigation
AS 24.65.160 permits advocate to publish opinions and recommendations

AS 24.65.170 requires advocate to publish annual report

AS 24.65.180 limits judicial challenge of advocate's actions

AS 24.65.190 provides immunity to advocate

AS 24.65.200 provides evidentiary privilege against being compelled to testify to advocate

AS 24.65.210 sets out criminal penalty for obstruction of advocate's duties

AS 24.65.250 definitions

Section 6 of the bill specifies that the Victims' Advocate and staff are in the partially exempt category.

Section 7 of the bill provides option of adopting longevity pay provisions to the Victims' Advocate.

Section 8 of the bill excepts OVR employees from using the conditional service retirement benefit for legislative employees.

Section 9 of the bill expands PFD ineligibility to a person who has been convicted of a misdemeanor and has one prior felony conviction.

Section 10 of the bill amends the public notice statute to conform with the changes in Section 9 and provides that the proceeds of the PFD forfeiture may be used to fund the Office of Victims' Rights.

Section 11 of the bill exempts regulations promulgated by the OVR from gubernatorial review.

Section 12 of the bill exempts the Victims' Advocate from record keeping requirements.

Section 13 of the bill requires that sunset review of agencies consider interaction with OVR.

Section 14 of the bill names OVR as state agency for purposes of state publications.

Section 15 & 16 of the bill provides court rule change notice.

Section 17 of the bill allows the Director of LAA to purchase supplies and equipment and establish office space for the new OVR in FY 01 to allow for the opening of the office in FY 02.

Sections 18 and 19 of the bill are the effective date clauses.

ALASKA STATE LEGISLATURE
Senator Rick Halford
President of the Senate

While in Session:
State Capitol
Juneau, AK 99801-1182
907-465-4958

While in Interim:
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Senate Bill 105
Office of Victims' Rights

State Justice Agency Financial Information

Department of Law - Criminal Division

	FY 00 Actual	FY 01 Authorized	FY 02 Budget
BRU total	12,556.4	13,144.4	14,747.8

Department of Administration - Legal and Advocacy Services

	FY 00 Actual	FY 01 Authorized	FY 02 Budget
Public Advocacy	8,883.5	8,947.8	9,827.4
Public Defender	9,428.0	9,510.3	11,013.9
BRU total	18,311.5	18,459.1	20,843.3

The above represents annual state spending of $ 35,589,100 for publicly funded criminal defense and state prosecution.

The Office of Victims' Advocacy, established by Senate Bill 105, has a projected annual funding level of $450,000.

SUPPORTING
DOCUMENTS

National Institute of Justice and National Center for Victims of Crime Release Landmark Study
December 29, 1998

ARLINGTON, VA. The National Center for Victims of Crime (formerly the National Victim Center) announced the long-awaited release of its study of crime victims' rights, including the largest survey ever conducted of crime victims. The study is the subject of a Research in Brief released by the U.S. Department of Justice, National Institute of Justice, which funded the project.

The study's many significant findings include:

- Victims in states with strong victims' rights laws were more likely to be kept informed and to participate in the criminal justice system.

- Even in states with strong statutory and constitutional protections for crime victims' rights, large numbers of victims did not receive many of their rights. Half of all victims surveyed were not notified or consulted in advance of plea agreements, even in those states where they had a right to be informed. Only a third of victims, even in the states with strong protection, were notified of the defendant's bail release. Nearly half of victims surveyed, even in states with strong protection, were not notified of the sentencing hearing, a hearing they had the legal right to attend and to participate in by presenting a statement.

- There was a general failure to order and collect restitution from convicted offenders, even where crime victims had a clear legal right to such restitution.

- Where victims' rights had strong legal protection, crime victims were more likely to have positive feelings about each aspect of the criminal justice system, from efforts to apprehend the perpetrator to the fairness of the sentence.

- A substantial number of criminal justice officials interviewed were not aware that various crime victims' rights were required by law, rather than just agency policy or practice. Many officials were also unclear about which criminal justice agency had the duty to provide various crime victims' rights.

This study shows that victims' rights laws matter, and that they improve crime victims' satisfaction with each and every aspect of the criminal justice system, according to David Beatty, the Center's Director of Public Policy and Project Director for the study. <u>Unfortunately, it also reveals that the strong state statutes and state constitutional amendments that are already on the books have not been enough to guarantee victims' rights.</u>

ADDITIONAL
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The study compared two groups of states -- those with strong legal protections for the rights of crime victims and those with weaker protection -- and focused on the rights of victims to be informed, to be present, and to be heard during the criminal justice process, and on the victims' right to restitution from convicted offenders. It sought to determine the extent to which legal rights for crime victims were being implemented, whether the scope and strength of the law was directly correlated to the increased provision of information and participatory opportunities to crime victims, and the opinions of victims regarding the criminal justice system. Over 1300 crime victims were interviewed regarding their experience with the criminal justice system. Criminal justice and victim service professionals at the state and local levels were also surveyed. With few exceptions, there has been a relative lack of sound scientific research into the effect of crime victims' rights laws, noted Dr. Dean Kilpatrick, of the National Crime Victims Research and Treatment Center at the Medical University of South Carolina, who served as Research Consultant for the project. This study presents concrete data that will be used by advocates and policymakers to improve the nation's response to victims of crime.

For more information contact
David Beatty
Director, Public Policy
703-276-2880

May 1998

U.S. Department of Justice
Office of Justice Programs
Office for Victims of Crime

New Directions from the Field:

Victims' Rights and Services for the 21st Century

NCJ 170600

ADDITIONAL
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techniques to use with victims, including child and elderly victims, victims who do not speak English, victims from diverse cultures, and victims with disabilities, including those who are blind or deaf or who have cognitive or developmental disabilities. Brochures describing victims' rights and services should be developed in the languages used by crime victims in each community, and all brochures and critical victim information written in English should include a sentence offering the literature in other languages as needed. Special provisions should be made for communicating with victims who are blind or visually impaired using audiotapes, special computer disks, Braille, or other communication technologies. Service providers should be trained to use sign language interpreters and TDD technology to communicate with victims who are deaf or hard of hearing.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #12

Victims of crime should receive assistance in exercising their participatory rights. Advocates should be available to explain rights to victims, help them to exercise those rights and, when necessary, serve as their representatives in court and other key justice processes when victims are underage or incapacitated or if representation is otherwise appropriate.

One of the greatest barriers to victims participating in justice proceedings is their not having the means to do so. Many victims cannot afford to pay for parking, child care, or time off from work. Others do not have the resources to cover transportation costs to courts, especially if the trial or hearing is held outside their community. In these cases, every effort should be made to facilitate victim participation by providing special services such as child care, or paying for transportation and lodging expenses. For example, in the Alfred P. Murrah Federal Building bombing cases, government and non-profit agencies and the private sector formed a partnership to provide funding for victim travel expenses after the trial was moved from Oklahoma City to Denver, Colorado in 1997. In addition, the court in Denver set up a closed-circuit television communication in Oklahoma City to allow victims there to view the proceedings in Denver. New uses of technology should be considered to provide access to trials and other proceedings for victims who are physically unable to attend them. Furthermore, more consideration must be given to the tremendous diversity among victims in the design and delivery of victim services.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #18

Victims should have standing to enforce their rights, and sanctions should be applied to criminal and juvenile justice professionals who deny victims their fundamental rights.

Although more than 27,000 state and federal laws have been enacted to protect and enforce the interests, rights, and services for crime victims, the *consistent* implementation and enforcement of these laws is an area of great concern. Victims report that criminal and juvenile justice officials at times disregard their statutory and constitutional rights, and that they have no legal recourse when their rights are violated. States should enact provisions that give victims measures to enforce their rights when they are disregarded.

While limited legal remedies such as court-ordered injunctions and writs of mandamus are generally available to force criminal justice personnel to comply with the law, states are beginning to pass laws that provide specific statutory remedies and recourse for crime victims. A Maryland statute enables victims of violent crimes to apply for "leave to appeal" any final order that denies victims certain basic rights.[90] Arizona law grants victims the right to challenge postconviction release decisions resulting from hearings at which they were denied the opportunity to receive notice, attend, or be heard. Arizona law allows victims to sue for money damages any government entity responsible for the "intentional, knowing or grossly negligent violation" of the victims' rights.[91]

It is critical that effective measures be available to remedy violations of victims' rights, including authority for the government to obtain redress through applications for mandamus and appeal. The need for this reform in federal proceedings is illustrated by the first trial in the bombing of the Alfred P. Murrah Federal Building, in which the trial court ruled that victims would not be allowed to attend the trial if they wished to be heard at the sentencing stage. On review, the Tenth Circuit Court of Appeals held that victims had no standing to assert their right to be present and that the government could not enforce that right by appeal or by seeking a mandatory order.[92]

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #19

States and the federal government should create compliance enforcement programs, sometimes referred to as victim ombudsman programs, to help facilitate the implementation of victims' rights.

State victims' rights compliance enforcement programs oversee justice officials' and agencies' compliance with crime victims' statutory and constitutional rights and investigate crime victim complaints relevant to those rights being violated.[73] A few states have created such programs within an existing agency or have established a new, state-level oversight authority. In initiating such a program, officials should consider the importance of meaningful remedies and sanctions for noncompliance with victims' rights laws; and ensure that victims, victim service providers, advocacy groups, and victim-sensitive justice professionals are involved in the program planning process. In addition, justice agencies should consider increasing crime or court surcharges to support a compliance enforcement functions, and should evaluate overall compliance enforcement system.

Innovative approaches to victims' rights oversight have been implemented in several states:

- The Minnesota Office of the Crime Victims Ombudsman (OCVO) protects the rights of victims by investigating statutory violations of victims' rights laws and mistreatment by criminal justice practitioners. OCVO is authorized to initiate its own investigation of alleged violations, recommend corrective action, and make its findings public to both the legislature and the press.

- The South Carolina Office of the Crime Victims' Ombudsman is empowered to act as a referral entity for victims in need of services, a liaison between victims and the criminal and juvenile justice systems in the course of their interaction, and a resolver of complaints made by victims against elements of those systems and against victim assistance programs. In addressing complaints, the South Carolina Ombudsman program is not limited to inquiries into violations of specific statutory rights, but may review other conduct that is potentially unfair to victims.[74]

- Colorado has recently enacted a state-level coordinating committee that serves an ombudsman function for victims' rights implementation.[75] The Colorado Victims' Compensation and Assistance Coordinating Committee and its Victims' Rights Act (VRA) subcommittee help victims enforce their rights by overseeing the actions of local government agencies. The subcommittee and full coordinating committee have the power to investigate VRA violations and to recommend action with which an agency must comply to rectify victims' complaints. The two bodies also monitor the implementation of those suggestions and may refer issues of noncompliance to the governor or attorney general.[76]

- Wisconsin has a state-level victims' services office—the Victim Resource Center (VRC)—which provides information and service referrals to victims and acts as a liaison between victims and

criminal justice agencies in resolving complaints concerning unlawful or inappropriate agency action. Though it lacks enforcement authority, the VRC protects victims' rights by investigating complaints and presenting its recommendations for corrective action to state criminal justice officials. The Wisconsin legislature is currently debating a measure that would prescribe remedies for violations of victims' rights laws and provide for the enforcement of Wisconsin's victims' rights constitutional amendment.[97]

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #20

Federal crime victims' rights should apply in military proceedings.

The extensive range of information, notification, and participatory rights that have been enacted on the federal level should be fully implemented for victims' rights within military justice proceedings. Some victims' rights established at the federal level are not implemented in military courts. Restitution for victims is frequently ordered as part of sentences for federal crimes, but there is no authority to do so under the Uniform Code of Military Justice.[98] Moreover, the military justice system has failed to adopt "truth in sentencing" reforms and continues to parole offenders, a practice that generally has been abolished in federal criminal cases. The Uniform Code of Military Justice should be amended to make restitution mandatory.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #21

Indian tribes should review their legislation, policies, and court systems to enhance the fundamental rights of Native American victims.

There are 621 federally recognized tribes in the United States; each of these tribes is a separate sovereign with legislative and adjudicatory authority. There are 242 separate tribal court systems, trial and appellate, as well as numerous traditional dispute resolution forums unique to each tribal culture.[99] While many major crimes that occur in Indian country are prosecuted in federal or state courts, tribes retain concurrent criminal jurisdiction over Native American defendants.[100] Moreover, tribal courts are often the sole forum for prosecuting crimes and juvenile offenses involving child abuse and domestic violence.

Tribes should analyze and amend their laws and policies, as well as observe and change procedures of their courts, law enforcement offices, and human services agencies in order to protect and enhance the fundamental rights of Native American victims. Tribes should

establish joint tribal-state and federal forums to ensure that Native American victims are not lost in the jurisdictional complications of Indian country. They should also train their leaders, justice personnel, and community members on prevention measures and effective responses to crime in Indian country.

Not withstanding political pressures and lack of economic resources, a number of tribes have successfully implemented crime victims' rights ordinances, mandatory arrest policies for domestic violence, safe houses, community education projects, and an array of culturally appropriate systems for protecting Native American crime victims. Some tribes have included the rights of crime victims in their codes. For example, the Uniform Sentencing Policy of the Courts of the Navajo Nation includes the rights for victims to have input into plea agreements, proposed sentences, and restitution decisions. The Salt River Pima-Maricopa Indian Community Council passed a Children's Bill of Rights, and the Crow Tribal Council developed rights for domestic violence victims that are set forth in its Domestic Abuse Code.

From tribal police intervention to tribal court proceedings, the victims of violent crime in Indian country must have rights available to them. They must be informed of their rights, encouraged to exercise their rights, and be protected from further harm. This is the basic responsibility of a tribal criminal justice system.

Joseph Myers,
Executive Director,
National Indian Justice Center

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #22

Victims of crime should have rights at administrative proceedings, including the right to have a person of their choice accompany them to the proceedings, the right to input regarding the sanction, and the right to notification of the sanction.

Agencies and institutions that seek to hold their employees or students accountable for their alleged criminal or negligent behavior often do so through administrative proceedings, including disciplinary hearings on college campuses in sexual assault cases and other crimes that violate college rules. Governmental and private sector organizations also conduct administrative hearings when an employee is accused of misconduct, which sometimes also constitutes a criminal act. These hearings are held to determine whether an employee or student should be dismissed or sanctioned.

Victims often complain about their lack of rights and protections at these hearings. For example, at disciplinary hearings on college campuses and in schools, as well as administrative proceedings when criminal justice personnel are accused of conduct violations, victims are frequently not allowed such fundamental rights as the right to be accompanied by a person of their choice and the right to submit a victim impact statement before the offender is sanctioned. Agencies and institutions should review their disciplinary codes and ensure that

fundamental victims' rights are incorporated. In addition, all cases involving criminal conduct should be referred to law enforcement for further investigation.

State laws should be strengthened to ensure that these victims receive appropriate rights. For example, California recently amended its Education Code to provide victims of sexual assault and harassment in public schools with the rights to: be accompanied by a parent or other support person during testimony in disciplinary hearings; adequate notice prior to being called to testify; testify at a hearing closed to the public; and have evidence of irrelevant sexual history excluded.[101] The law also requires school districts to take further steps to provide a nonthreatening environment for child victims by adopting procedures that have become the standard across the country for children who testify as witnesses in other legal proceedings. Support for the law was initiated by the Santa Monica-UCLA Rape Treatment Center after the rape of a 12-year-old middle school student in a Los Angeles school by a fellow student. She had to face the accused attacker, his parents, and his attorney alone during an expulsion hearing.[102]

The *Student Right to Know Campus Security Act of 1990,*[103] and *The Campus Sexual Assault Victims' Bill of Rights*[104] passed by Congress should be fully implemented. These laws should be amended to ensure that the same rights to be informed, present, and heard in criminal proceedings apply equally to disciplinary proceedings in school settings.

Other victims whose rights are woefully overlooked are victims of mentally ill offenders whose cases are adjudicated through an involuntary mental commitment process. Where applicable, these victims should receive the same rights as other victims, including the right to receive notice of release.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #23

Criminal and juvenile justice agencies should establish a means of monitoring their own compliance with crime victims' rights laws and require public documentation showing that victims were provided their rights or indicating an appropriate reason why they were not. In addition, independent audits should be conducted of state and federal agency compliance with victims' rights laws.

Criminal and juvenile justice agencies and institutions should develop and implement policies and procedures to ensure that all

crime victims are afforded the opportunity to exercise their rights. Monitoring should be mandatory at all stages of the justice systems. Criminal and juvenile justice agencies should document whether or not crime victims receive notice of and an opportunity to exercise their rights and, if not, why not. Such documentation is a significant step toward holding officials accountable and will enable agencies to monitor their compliance with legal mandates.

Further information is needed about the level of state and federal compliance with victims' rights laws to determine how to improve implementation of these laws. This information should be obtained through independent audits that can evaluate levels of compliance and propose needed reforms to improve the system.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #24

Introductory and continuing education for all criminal and juvenile justice professionals should address victims' rights, needs, and services, and incorporate involvement from crime victims themselves.

To increase compliance with victims' rights laws, states must make education on the rights of crime victims a priority during orientation and continuing education training programs for criminal and juvenile justice officials. Implementing victims' rights remains the responsibility of these officials. They must be educated about the importance of their victim-related responsibilities and sensitized to the critical needs of crime victims.

Training programs for law enforcement officers, prosecutors, and judges, as well as probation, parole, and corrections officials, have been developed and implemented on a broad scale through training and technical assistance grant projects funded by the Office for Victims of Crime. Some institutions responsible for educating and training these professionals are beginning to incorporate victim-related sensitivity training into their permanent curricula. In some states, such training is mandated by statute, but in others, the incorporation of victims' issues is voluntary.[105]

Victim input into such educational programs is critical. Victim impact panels provide a vehicle for victims to tell justice professionals firsthand about the physical, financial, and emotional impact of crime. Developed by Mothers Against Drunk Driving as an educational tool in court-ordered probation programs for DUI offenders, and for youth offenders by the California Youth Authority, they are increasingly being

SB

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FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 116
(S) Publish Date: 2/22/01

Revision Date/Time (Note if correction):
Title: ATAP Program Amendments
Sponsor: Rules
Requester: Governor

Dept. Affected: Health & Social Services
BRU: Public Assistance
Component: ATAP
Component Number: 220

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

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

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

Although this proposed legislation may allow more than 20% of the eligible ATAP caseload to receive benefits beyond 60 months, there are no projected financial impacts. The ATAP program is partially funded by the federal TANF block grant which does not vary regardless of the number of families served. Also, federal law requires the State to contribute a fixed amount of state funds toward the program, called maintenance of effort (MOE). Additionally, caseloads are projected to continue their downward trend.

Prepared by: Jim Nordl[illegible] Phone
Division: Director of [illegible]ublic Assistance Date/Time
Approved by: Elmer A. Lindstrom, Special Assistant Date 2/15/01 4:29 PM
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

(Rev 2/7/2001 OMB)

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 21, 2001

The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Halford:

Five years ago my Administration worked with the Legislature to create a new welfare law for Alaska. Under the banner of welfare reform, we repealed the Aid to Families with Dependent Children and Job Opportunity and Basic Skills programs and created the Alaska Temporary Assistance Program (ATAP). We have had great success with the program, with more Alaskans transitioning from welfare to work and our caseload dropping by more than 40 percent. Like many other states addressing welfare reform, we recognize what changes are needed to improve our program administration and ensure its continued success. These changes are addressed in the bill I transmit today.

The bill repeals the percentage limit on the number of families that may continue on assistance for more than 60 months due to hardship. Removal of this limit will permit the Department of Health and Social Services to base its hardship exceptions on objective criteria rather than on a fixed percentage of overall caseload. As families are successful in finding work and the overall caseload decreases, the number of hardship cases makes up a greater percentage of the total.

Alaska set an extremely aggressive goal, compared to other states, in capping our hardship cases at a specific percentage of the total. Other states either avoided time limits completely or set a broader range of exemptions to the limits. We now recognize the fixed percentage in our law artificially bars needy families with disabled adults from receiving essential cash assistance and services for their children. The first families will begin to exceed the 60-month lifetime limit in July of 2002.

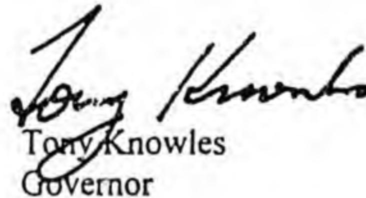
INFORMATION STATEMENT

The bill also addresses the seasonal reduction provisions for a two-parent needy family by removing outdated eligibility requirements as cited in a Superior Court ruling. This change permits the department to apply the seasonal reduction provision to all two-parent needy families in which both parents are physically and mentally able to work.

Finally, the bill requires disabled parents to have self-sufficiency plans. The state can better serve these parents by promoting their efforts toward self-sufficiency.

We have seen dramatic, positive changes for poor Alaska families. Thousands of recipients have been assisted into work and the state has saved millions of dollars in welfare benefit payments. The reform measures provided a durable framework for a new era of welfare in Alaska. I urge your favorable consideration for these improvements to the program.

Sincerely,



Tony Knowles
Governor

SB

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Reporting of Confidential Client Data

The Division of Mental Health and Developmental Disabilities has had difficulty in its efforts to gather confidential information about clients. Some providers are resistant to reporting data, and to notifying the division of emergent situations when clients are missing, seriously injured or deceased. Some providers claim that they fear potential litigation if they supply confidential information, that reporting would violate client rights to privacy and professional ethics. Some providers are experiencing technical difficulties or may have back-burnered the submission of data. While most providers are cooperative, in-order for the state to insure the health, safety and well being of consumers, it is necessary to strengthen and clarify laws to specify the Departments legal positions on these matters.

The gathering of this data is essential to the division's ability to monitor, make management decisions, meet service needs of Alaskans with mental illness, and to comply with legislative expectations for providing accurate performance measure information. The requirement that providers notify the division of missing, seriously injured, and deceased consumers involves emergent situations, and is consistent with the intent of HIPPA and HCFA.

This bill:

- Gives the Department of Health and Social Services the statutory authority to require that mental health centers that receive state funds report certain confidential client data to the Division of Mental Health and Developmental Disabilities (DMHDD), and comply with regulations regarding such data submission.

- Protects licensed mental health clinicians who report required confidential client data.

- Clarifies that confidential client data are considered to be "confidential medical records" and are not open to the public for inspection or copying.

- Requires that mental health providers notify DHSS of emergency situations involving mental health clients—most other states have these requirements.

- Provides access to confidential information regarding consumers utilizing the Mental Health Treatment Assistance Program and requires confidential handling of that information.

- Protects consumers rights to privacy by insuring that confidential information is used and handled appropriately

- Promotes the health and safety of Alaska's mental health consumers.

BILL INFORMATION

Current Status of Prior Recommendation

The rate setting methodology, now fully documented, bases the various rates on the costs of the personnel providing specific mental health services. Though the calculated rates were based on estimates, an abbreviated cost study[7] has shown that the estimates are materially supported by actual expenditure data.

The previous audit also identified the combination of vague service descriptions in the regulations and limited technical assistance from the divisions as problematic. As discussed above, the expansion of the quality assurance program to include technical assistance has helped to alleviate some of the confusion in Medicaid service descriptions and clarify file documentation requirements.

Activity therapy was one of the more ambiguous service categories that, by FY 97, had shown steep cost increases. Accordingly, this category was of particular concern to both the auditors and the division. After the previous audit, the division made an effort to emphasize active treatment and required thorough documentation for activity therapy. The costs per client for this service have decreased by more than 19% since FY 97.

Legislative Audit's Current Position

As a result of the above actions, we believe the agency has fully implemented prior Recommendation No. 3. We encourage DHSS to continue with plans to fully train providers on the new regulations and to periodically review the regulations and the associated rates to ensure that they remain reasonable.

Prior Recommendation No. 4

DMHDD should obtain client service data to enable effective management of the State's community mental health programs.

Currently, the lack of client service data renders DMHDD unable to determine if community mental health funding is appropriate. No reliable data currently exists which accurately reflects the total number of clients annually receiving publicly funded community mental health services. While the Medicaid payment system does collect the number of clients served through Medicaid, major deficiencies exist in DMHDD's data collection concerning clients served by state grant funds.

DMHDD has collected selective mental health client data from providers for many years using a management information system (MIS). However, the type of information collected is not adequate to measure the number of clients served by the state grant system. Inherent system inadequacies such as no mandatory provider participation requirements, no data verification process, and a varying definition between providers of who qualifies as a "client" makes the reliability of the data suspect. Some providers we interviewed expressed frustration that while they spend the time to submit data reports to DMHDD, they receive little for their efforts.

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[7] The cost study consisted of actual personal services and overhead expenditure data from each of 6 providers. The providers sampled were selected in an effort to produce a representative cross section of providers with regard to size, region, and funding amounts.

BILL INFORMATION

Furthermore, current data collection methods do not allow unduplication between the number of clients served as reported by DMHDD's MIS and the number of clients served as reported by the Medicaid MIS. Without this ability, DHSS cannot identify the total population of mental health clients served nor detect if Medicaid payments are being made for clients also funded through state grants.

While the number of clients served does not reflect the amount of service delivered, we believe that a significant element of grant funding decisions should be based on the historical number of clients served in an area. Currently, it appears DMHDD bases its grant funding allocations primarily on how much a provider was granted in prior years.

Current Status of Prior Recommendation

Since the previous report, DMHDD has installed a new data system, ARORA. This system is capable of capturing the individual client data, but DMHDD has found it difficult to actually collect and use the data for grant management decisions. Problems surrounding the collection of data from providers have included technical difficulties, providers' inability to submit data in a timely fashion, and a lawsuit ostensibly filed to protect the confidentiality of client data.

DMHDD has been ineffective in its efforts to collect comprehensive client information. The information services section is in frequent contact with providers regarding data submissions or lack thereof. Non-compliant providers also receive periodic reminders of their reporting obligations from the division director, but the division has been reluctant to become more assertive with these providers. While financial sanctions for providers that will not submit the required data would likely be the most effective method to gain compliance, the division is concerned with the effect these sanctions might have on consumers.

Legislative Audit's Current Position

The division's inability to collect comprehensive client data continues to limit its ability to use the management information system for grant funding decisions, ensure that services are not dual billed, or offer providers feedback about services and the associated costs. While we recognize that other sources of information, as discussed in the Reports Conclusions section, provide a context in which to review client data, that information is not an adequate substitute for comprehensive client data.

Many of the data problems are the result of provider noncompliance with specific grant requirements. To remedy this noncompliance, DMHDD may be forced to institute financial sanctions by withholding grant funds from grantees determined to be out of compliance with data submission requirements.

DMHDD is currently restructuring its data processing section, exploring possibilities to facilitate data submission, and discussing potential sanctions for providers that do not comply with data submission requirements. Though we view these efforts as steps in the right direction, the actual implementation status of the recommendation remains limited.

In addition to current efforts to obtain client data, we encourage DHSS to consider its long-term data needs and assess whether a system that collects only mental health data is cost effective when many clients receive services from multiple divisions.

Prior Recommendation No. 5

DMHDD should develop meaningful outcome measures and collect meaningful outcome data to determine effectiveness of services provided by public community mental health funding.

DMHDD does not collect sufficient data to measure the effectiveness of Alaska's community mental health services. We believe such information is necessary for proper management of the State's community mental health programs. Without these tools, program managers are without the necessary information to evaluate the success of services provided to Alaskan's with mental illness.

The FY 98 community mental health grant budget documents identify that:

> *There is no effective way to assure that grant funds are used in the most therapeutic way; there are funding duplications due to grantees having multiple funding sources; services are agency-driven, not consumer-driven; and services are not always clearly tied to an identified treatment need.*

Current Status of Prior Recommendation

Though DMHDD has been unable to collect and measure individual client data, the division receives frequent anecdotal feedback from consumers, advocacy groups, the AMHB, and the trust. Additionally, the division has developed several numerical indicators of consumer satisfaction and the effectiveness of services. These indicators include data gathered through the consumer satisfaction section of the integrated quality assurance reviews as well as measures developed by the legislature.

As discussed in Recommendation No. 6, DHSS has added a consumer satisfaction survey to its quality assurance program. The results of the consumer satisfaction section of the quality assurance reviews over the last two fiscal years suggest that consumers are generally satisfied with the services they have received from community mental health centers. Consumers from 46 community mental health centers responded to questions designed to determine how satisfied they were with the services provided through the CMHCs. Of the consumers surveyed, 71% said they were fully satisfied, while 14% were partially satisfied. Nine percent were not satisfied and 6% did not know or felt the questions did not apply to their circumstances.

The division and the AMHB have initiated a performance measurement project designed to define performance measures, develop tools for gathering data to measures and implement the data collection and measurement process. A steering committee

Audit Report

DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISIONS OF MEDICAL ASSISTANCE AND MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES, COMMUNITY MENTAL HEALTH CENTER PROGRAM, FOLLOW-UP

December 1, 2000

Audit Control Number:

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Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

BILL INFORMATION

Prior Recommendation No. 4

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DMHDD has collected selective mental health client data from providers for many years using a management information system (MIS). However, the type of information collected is not adequate to measure the number of clients served by the state grant system. Inherent system inadequacies such as no mandatory provider participation requirements, no data verification process, and a varying definition between providers of who qualifies as a "client" makes the reliability of the data suspect. Some providers we

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Furthermore, current data collection methods do not allow unduplication between the number of clients served as reported by DMHDD's MIS and the number of clients served as reported by the Medicaid MIS. Without this ability, DHSS cannot identify the total population of mental health clients served nor detect if Medicaid payments are being made for clients also funded through state grants.

While the number of clients served does not reflect the amount of service delivered, we believe that a significant element of grant funding decisions should be based on the historical number of clients served in an area. Currently, it appears DMHDD bases its grant funding allocations primarily on how much a provider was granted in prior years.

Current Status of Prior Recommendation
Since the previous report, DMHDD has installed a new data system, ARORA. This system is capable of capturing the individual client data, but DMHDD has found it difficult to actually collect and use the data for grant management decisions. Problems surrounding the collection of data from providers have included technical difficulties, providers' inability to submit data in a timely fashion, and a lawsuit ostensibly filed to protect the confidentiality of client data.

DMHDD has been ineffective in its efforts to collect comprehensive client information. The information services section is in frequent contact with providers regarding data submissions or lack thereof. Non-compliant providers also receive periodic reminders of their reporting obligations from the division director, but the division has been reluctant to become more assertive with these providers. While financial sanctions for providers that will not submit the required data would likely be the most effective method to gain compliance, the division is concerned with the effect these sanctions might have on consumers.

Legislative Audit's Current Position
The division's inability to collect comprehensive client data continues to limit its ability to use the management information system for grant funding decisions, ensure that services are not dual billed, or offer providers feedback about services and the associated costs. While we recognize that other sources of information, as discussed in the Reports Conclusions section, provide a context in which to review client data, that information is not an adequate substitute for comprehensive client data.

Many of the data problems are the result of provider noncompliance with specific grant requirements. To remedy this noncompliance, DMHDD may be forced to institute financial sanctions by withholding grant funds from grantees determined to be out of compliance with data submission requirements.

DMHDD is currently restructuring its data processing section, exploring possibilities to facilitate data submission, and discussing potential sanctions for providers that do not comply with data submission requirements. Though we view these efforts as steps in the

right direction, the actual implementation status of the recommendation remains limited. In addition to current efforts to obtain client data, we encourage DHSS to consider its long-term data needs and assess whether a system that collects only mental health data is cost effective when many clients receive services from multiple divisions.