

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10594 SENATE • JUDICIARY

(Cite as: 118 Wis.2d 762, *790, 348 N.W.2d 559, **573)

assistance. Concurrent governmental powers do not jeopardize the judiciary's independence. The court remains the final arbiter of constitutionality of a legislative enactment and, as such, retains power to check any legislative enactment which unduly hinders or hampers the administration of justice.

FN4. The doctrine of separation of powers is not an absolute rule but a working principle of government. It recognizes that each branch of government has exclusive functions which no other branch can perform, but that many governmental duties may be shared by one or more branches. The doctrine is applied to maintain balance between three branches of government, to preserve their respective independence and integrity, and to prevent the concentration of unchecked power in the hands of any one branch. See, e.g., *In re E.B.*, 111 Wis.2d 175, 181-85, 330 N.W.2d 584 (1983); *State v. Holmes*, 106 Wis.2d 31, 42-45, 315 N.W.2d 703 (1982); *Loyton School of Art & Design v. Wisconsin Employment Relations Commission*, 82 Wis.2d 324, 347-43, 262 N.W.2d 218 (1978); *In re Integration of Bar Case*, 244 Wis. 8, 45-46, 11 N.W.2d 604 (1943); *In re Cannon*, 206 Wis. 374, 240 N.W. 441 (1932); *Rules of Court Case*, 204 Wis. 501, 503-04, 236 N.W. 717 (1931).

In determining whether sec. 757.025 violates the separation of powers doctrine, the proper inquiry focuses on the following three issues:

I. Since the Wisconsin legislature has plenary legislative power to act for the general welfare--except as its *791 power is expressly proscribed by the state or federal constitution or federal law--the first issue to be addressed is whether there is any such proscription on the enactment of sec. 757.025. We do not consider at this stage of the discussion the separation of powers doctrine.

Judge Grady asserts that sec. 757.025 violates article IV, section 26, of the Wisconsin Constitution, which prohibits diminution of judicial salaries. I conclude that sec. 757.025 does not constitute a diminution of salary. Even if it does, such diminution is permitted. The Wisconsin Constitution, unlike other constitutions, empowers the legislature to change judicial salaries during the term of office of the judge if the change in salary applies to all judges and the effective date of the law complies with the constitution.

II. Since the legislature is not expressly prohibited from adopting sec. 757.025, the second issue is

whether sec. 757.025 falls within an area of authority within which the court may act.

Judicial power extends beyond the power to adjudicate a particular controversy and encompasses the power to regulate matters related to adjudication. It is undisputed that the constitutional grant of judicial power to this court includes the power to adopt rules regulating the time within which decisions are to be rendered. I therefore conclude that sec. 757.025 falls within an area of authority in which the court may act.

III. Since sec. 757.025 falls within an area of authority in which the legislature is not expressly prohibited from acting and in which the court may act, the third issue is whether sec. 757.025 falls within an area of exclusive judicial authority or within an area of authority shared by the legislature and court.

If a law falls within the court's exclusive authority, this court has held that such a **574 law is valid if this court accepts it as an aid to the court's power; it is invalid if this court determines that the law thwarts the court's *792 power. *State ex rel. Reynolds v. Dinger*, 14 Wis.2d 193, 109 N.W.2d 685 (1961).

If a law falls within an area of shared authority, this court has held that such a law is constitutional unless it unduly burdens or substantially interferes with the judicial branch. *State v. Holmes*, 106 Wis.2d 31, 42, 68, 315 N.W.2d 703 (1981).

I conclude that sec. 757.025 falls within an area of shared authority. This court has recognized that both the legislature and the courts have a duty under article I, section 9, of the state constitution to ensure prompt justice. Since sec. 757.025 has not proven an undue burden on the judiciary in the 25 years since its enactment, I conclude it is constitutional.

Even if I were to agree with the majority that sec. 757.025 falls within an area of authority exclusively reposed in the judicial branch, I would accept sec. 757.025 as an aid to the court's power because it neither interferes with substantive decision-making nor sets unreasonable time limits.

I.

The legislature's exercise of legislative power is subject only to the limitations and restraints imposed

by the state constitution, the federal constitution, or federal laws. *State ex rel. Frederick v. Zimmerman*, 254 Wis. 600, 615, 37 N.W.2d 472 (1949). The separation of powers doctrine does not necessarily prohibit the legislature from exercising its legislative policy making powers in areas that may in some way affect the judicial branch of government. *State v. Holmes, supra*, 106 Wis.2d at 46, 315 N.W.2d 703; *John F. Jelke Co. v. Beck*, 208 Wis. 650, 660, 242 N.W. 576 (1932). The legislature adopted sec. 757.025 for the purpose of ensuring prompt resolution of litigation. There is no express federal or state constitutional prohibition or federal statutory prohibition on the legislature*793 enacting laws to ensure prompt resolution of litigation.

Clearly, the legislature has power to control judicial salaries. The constitution expressly provides that "judges shall receive such compensation as the legislature may authorize by law...." Art. VII, sec. 10(2), Wis. Const.

Judge Grady challenged the pay-withholding provisions of sec. 757.025 as violating article IV, section 26, which provides as follows:

"Section 26 nor shall the compensation of any public officer be increased or diminished during his term of office except that when any increase or decrease provided by the legislature in the compensation of the justices of the supreme court or judges of any court of record shall become effective as to any such justice or judge, it shall be effective from such a date as to each of such justices or judges...."

The majority does not decide whether sec. 757.025 violates this provision.

I am not persuaded that sec. 757.025 diminishes salary within the meaning of article IV, section 26. Sec. 757.025 does not reduce or eliminate a judge's salary upon the judge's failure to decide a case promptly; it merely delays payment.

I do not believe that the people intended the constitutional prohibition against diminution of salary to mean that a legislature was powerless to delay payment of salary if the judge was not performing up to minimum, reasonable, objective performance standards. Any diminution in the judge's salary based on the difference in value of present payment versus delayed payment is de minimis. I conclude the delay of payment of salary--which the judge can

avoid--does not constitute a diminution of compensation within the meaning of the state constitution.

I agree with the Judicial Conduct Panel which concluded that sec. 757.025 "does not, on its face, diminish *794 the compensation of a judge of a court of record during the judge's term of office. The statute merely places conditions on a judge drawing his or **575 her compensation, which [condition] has not proven to be unreasonable."

Finally, article IV, section 26, of the constitution does not bar the legislature from diminishing the compensation of a judge during the term of office. It allows the legislature to increase or diminish compensation of judges during their terms of office as long as the change in compensation applies to all judges of that court (circuit court, court of appeals, or supreme court) and the change becomes effective for any judge of that court who takes office after the change has been enacted. Thus even if sec. 757.025 is viewed as a diminution of salary, sec. 757.025 is constitutional because it applies to all circuit court judges and has been in effect as to circuit court judges since 1959.

II.

I agree with the majority that this court's express, implied, incidental, and inherent judicial powers include the power to adopt rules regulating the time within which decisions are rendered. The state constitution vests the judicial power of this state in a unified court system, grants this court superintending and administrative authority over all courts, and provides that the chief justice exercise this administrative authority as the administrative head of the judicial system pursuant to procedures adopted by the supreme court. Wis. Const., art. VII, secs. 2, 3, 4(3). The constitution grants the court the power to adopt measures necessary for the due administration of justice in the state.

Furthermore, article I, section 9, of the Wisconsin Constitution, which guarantees to each person justice "promptly and without delay," imposes an obligation on this court "to realize as fully as possible the constitutional *795 guaranty of justice administered 'promptly and without delay.'" *Lumbermen's National Bank v. Corrigan*, 167 Wis. 82, 86, 166 N.W. 650 (1918). [FN5]

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FN5. See also *Strange v. Harwood*, 172 Wis. 24, 27-28, 177 N.W. 862 (1920); *D.H. v. State*, 76 Wis.2d 286, 294, 251 N.W.2d 196 (1977).

On the basis of article I, section 9, and the judiciary article of the constitution (article VII), I conclude that sec. 757.025 falls within an area of authority within which the court may act.

III.

While the majority opinion discusses the existence of areas of shared power in which both the legislative and judicial branches may act, it does not examine whether each branch has power to regulate the time in which decisions are rendered. In a quantum leap and with no explanation, it moves from recognizing that some areas of authority are exclusively reposed in the judicial branch to asserting that sec. 757.025 falls within such an area.

Keeping in mind the need for comity and cooperation between the branches of government as well as the need to maintain the integrity and independence of the judiciary, I conclude that sec. 757.025 falls within the area of shared powers and not within the exclusive power of the court.

The overlap of judicial and legislative powers to ensure prompt resolution of litigation arises from the court's power to adopt measures necessary for the due administration of justice and the legislature's power to protect the public welfare by promoting the efficient and impartial administration of justice.

Sec. 757.025 does not fall within the courts exclusive power to decide a case. Sec. 757.025 does not usurp or interfere with the adjudicative function. It does not dictate the substantive outcome of the case. It does not apply the law to the facts of a case.

*796 I recognize that the institutional independence of the judiciary must include the ability not only to decide an individual case but also to decide it in an atmosphere free from coercion or interference by another branch of government. While the requirements that an affidavit be filed and that pay be withheld if decisions are delayed beyond a prescribed time limit encourage judges to decide cases promptly, no one **576 claims that the imposition of reasonable time limits or the delay in compensation affects the circuit court's ability to reach a reasoned decision. *supra*, p. 570. What is more, if the 90-180 day time

limits in sec. 757.025 constitute coercion or interference with the circuit court's ability to independently and ably decide the merits of a case under the law, the rule adopted today would be outside the power of this court. *Cf. Wurtz v. Fleischman*, 97 Wis.2d 100, 107, n. 3, 293 N.W.2d 155 (1980).

Our prior cases support my conclusion that sec. 757.025 falls within the area of shared powers and is not a violation of the separation of powers doctrine. Sec. 757.025 is not the only statute--or the first statute-- establishing time limits for decision making. Sec. 757.025 has roots in the legal history of this state. As early as 1856 the Wisconsin legislature enacted statutes setting time limits within which the trial judge had to make certain decisions. See *Anderson v. Eggert*, 234 Wis. 348, 291 N.W. 365 (1940). This court has viewed these statutes favorably, as important provisions enacted by the legislature "for the purpose of requiring courts in the interest of sound public policy to administer justice 'promptly and without delay' in accordance with the constitutional mandate [of art. I, sec. 9]." *Anderson v. Eggert, supra* 234 Wis. at 354, 291 N.W. 365.

In holding that sec. 757.025 falls within the judiciary's exclusive authority, the majority ignores article I, section 9, of the Wisconsin Constitution and this court's interpretation of that provision. Article I, section 9, provides that every person "ought to obtain justice *797 freely, and without being obliged to purchase it, completely and without denial, *promptly and without delay*, conformably to the laws." (Emphasis supplied.)

This court has expressly recognized that article I, section 9, of the state constitution imposes on every officer of the state "an imperative duty which should be performed without hesitation." *Strange v. Harwood*, 172 Wis. 24, 27-28, 177 N.W. 862 (1920). The declaration in article I, section 9, is not "mere rhetoric", *Strange v. Harwood, supra* 172 Wis. at 27, 177 N.W. 862. It expresses one of the "fundamental purposes of our system of jurisprudence" and relates "to the whole scope of the administration of law." *Ward v. Racine College*, 176 Wis. 168, 176, 185 N.W. 635 (1921). See also *Lumbermen's National Bank v. Corrigan*, 167 Wis. 82, 86, 166 N.W. 650 (1918).

The majority's only explanation for concluding that sec. 757.025 falls within the area of exclusively

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judicial authority is that "the setting of time limits for judicial decision-making concerns the efficient and effective functioning of the court system, and therefore, is a matter of court administration. As such it comes within the administrative authority over all state courts which the Wisconsin Constitution vests in the Supreme Court. Art. VII, sec. 3(1) as amended in 1977. The legislature does not have the power to promulgate a rule of court administration." *Supra*, p. 569.

The majority appears to say that the legislature's law-making authority and the Supreme Court's administrative authority are mutually exclusive. [FN6] Yet the majority *798 makes no attempt to delineate the boundary line between these two spheres of authority. The boundary line is not self-evident. While it is possible to view many issues concerning the efficient and effective functioning of the court system as administrative matters, labeling them administrative should not place them within the court's exclusive power. Policy issues appropriate to legislative determination are as likely to appear in what might be labeled**577 "administrative" areas as in other areas. [FN7] Sec. 757.025 may also be labeled a procedural regulation, as this court has defined that term. See *Estate of Delmady*, 250 Wis. 389, 391, 27 N.W.2d 497 (1946). This court has frequently recognized that the legislative and judiciary share the power to regulate pleading, practice, and procedure issues that concern the efficient and effective administration of the court system. See *In re E.B.*, 111 Wis.2d 175, 181, 330 N.W.2d 584 (1983); sec. 751.12, Stats.1981-82.

FN6. Secs. 3(1) and 4(3) of article VII add no new power to this court. The language relating to administrative power was added to clarify the existence of this court's administrative authority which it had claimed and exercised previously. See Martineau and Malmgren, *Wisconsin Appellate Practice*, 225-26 (1978). See also *In re Court Rules*, 204 Wis. 501, 236 N.W. 717 (1931); *Rules Relating to the Creation of the Office of Chief Judge and the Creation of Administrative Districts for the Trial Courts*, 71 Wis.2d xiii (1975).

FN7. See ABA Committee on Standards of Judicial Administration, *Standards Relating to Court Organization* 75 (1974); Levin & Amsterdam, *Legislative Control over Judicial Rulemaking: A Problem in Constitutional Revision*, 107 U.Pa.L.Rev. 1, 36 (1958).

For the reasons I have set forth, I conclude that sec. 757.025 falls within the area of shared powers in which both the legislature and judiciary may properly act. [FN8] The next question then is whether sec. 757.025 is nevertheless unconstitutional because it materially impairs or practically defeats the circuit court's power or the proper functioning of the judicial system.

FN8. For similar reasoning see *United States v. Brainer*, 691 F.2d 691 (4th Cir.1982) (upholding federal Speedy Trial Act), and *State ex rel. Emerald People's Utility Dt. v. Joseph*, 292 Or. 357, 640 P.2d 1011 (1982) (upholding legislative command to court of appeals to hear and determine case within three months from time of taking appeal).

As the majority opinion acknowledged, "aside from Judge Grady's testimony that the statutory limit for *799 deciding cases was burdensome in exceptional cases and that the statute dictated which cases should be decided first, there is no evidence that the statute establishes unreasonable time limits for judges to decide cases submitted to them or substantially interferes with the exercise of their judicial duties." (P. 565)

Sec. 757.025, Stats., was enacted first in 1909 as to county judges [FN9] and then in 1959 as to circuit judges. [FN10] Except for a change in the length of the initial time period, [FN11] it has remained substantially unchanged and uncontested for almost 25 years. While the length of time the statute has been on the books does not govern its constitutionality, the statute's longevity does suggest that it is not an onerous regulation and has not posed difficulties for the circuit judges in the framework of their day-to-day routine, such that it "materially impairs or practically defeats the circuit court's exercise of jurisdiction and power or the proper functioning of the judicial system so as to constitute a violation of the doctrine of separation of powers." *State v. Holmes*, 106 Wis.2d 31, 69, 315 N.W.2d 703 (1982).

FN9. See ch. 19, Laws of 1909. This statute was repealed in 1945. See ch. 344, Laws of 1945.

FN10. Sec. 256.025 was adopted in 1959. Ch. 405, sec. 1, Laws of 1959. (One year period).

FN11. Ch. 253, secs. 2r, 3, Laws of 1969. (90-180 day period).

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Even if the majority were correct in concluding that sec. 757.025 falls within the exclusive constitutional power of the judiciary, this court has recognized that "other branches or departments of government by statute, rule, or regulation may aid but not thwart the court in its exercise of the court's [exclusive] constitutional powers." *State ex rel. Reynolds v. Dinger*, 14 Wis.2d 193, 203, 109 N.W.2d 685 (1961)

In *Dinger* this court recognized the validity of a statute imposing penalties for the unlicensed practice of law. Even though the court regarded the practice of law to be within this court's exclusive *800 constitutional power, this court nevertheless concluded that the statute was valid as an aid to the court's exercise of its exclusive constitutional power. The court also refused to invalidate a regulation allowing real estate brokers to complete purchase contract forms since it considered this regulation of the practice of law a salutary one which the court "long tacitly permitted and which has worked reasonably well." *State ex rel. Reynolds v. Dinger*, *supra* 14 Wis.2d at 206, 109 N.W.2d 685.

Thus, even if the majority view as to "exclusivity" is accepted, the majority must still determine whether sec. 757.025 aids or obstructs the court in the exercise of its **578 exclusive power. Since it is clear that sec. 757.025 does not impose unreasonable time limits, does not interfere with substantive decision-making, has worked reasonably well, and has been tacitly permitted by this court for a long time, I would think the majority should "respect" the legislature's declaration upon this question and "adopt" the statute since it does "not embarrass the court or impair its constitutional functions." *In re Integration of Bar Case*, 244 Wis. 8, 11 N.W.2d 604 (1943). As we said in *Dinger*, *supra*, 14 Wis.2d at 206, 109 N.W.2d 685: "[A]lthough we have the power to declare void [the Rule] ... we do not use the power in this instance because we, ourselves, consider the rule a salutary one...."

The majority's decision that sec. 757.025 is unconstitutional leads to several undesirable consequences: (1) this decision impedes the legislature's constitutional obligation to decide issues of public policy related to the administration of justice; (2) this decision relieves the legislature from its constitutional obligation to effectuate the state constitutional guarantee to each person that justice be obtained promptly and without delay; (3) this decision jeopardizes the validity of existing statutes that regulate pleading, practice, procedure and other

matters which might be viewed as impinging on what this court *801 has now characterized as the court's exclusive administrative authority.

For the reasons set forth, I disagree with the majority's conclusion that sec. 757.025 is unconstitutional.

CECI, Justice (concurring).

I agree with the majority that the reprimand of Judge Warren A. Grady is a warranted disciplinary measure for his persistent failure to perform official duties in order to promptly dispose of cases submitted to him for decision and for his failure to organize his court for prompt disposition of judicial business.

I also agree with the majority's decision to hold section 757.025, Stats., unconstitutional on the grounds that the statute's prescription of time limits for judicial decisions falls within an area of authority exclusively vested in the judicial branch of the government.

I write separately, however, because I believe that this is an appropriate case to draw attention to what I feel is a growing problem facing the judiciary of this state. As the majority notes in its opinion, the judicial conduct panel found that because of the court reorganization in 1978, Judge Grady's delay in deciding cases was partly due to the "substantial number and increased variety of cases assigned to him." Slip op. at 1. The judge's work load during the years of 1979 through 1982 was characterized by the panel as "heavy." The panel also found that Judge Grady had no law clerks, interns, secretary, fulltime clerk, or commissioners working in his court. *supra*; p. 563.

The majority accepted these findings of fact. The majority also concluded that the "efficient and effective functioning of the court system" falls within the administrative authority over the state courts that is vested in the supreme court. *supra*; p. 569.

*802 Because the efficient and effective functioning of the court system is within the administrative authority of this court, I believe that we should be concerned with the heavy work load of the judiciary and the lack of any statewide system or plan which guarantees circuit court judges access to secretaries, fulltime clerks, etc., for purposes of organizing their case loads. We should also be concerned with the

fact that in spite of the alarmingly high number of cases filed in courts like Judge Grady's, which was 744 for one year, there is likewise no statewide plan which provides circuit judges with the assistance of law clerks for research purposes. [FNI] Yet we expect our judges, without such assistance, to **579 promptly dispose of all cases, whether simple or complex, submitted to their courts for decision.

FNI. We take judicial notice of the fact that federal district court judges are provided with the services of two fulltime clerks.

The purpose of today's adoption of SCR 70.35, to

alert judicial administrative offices of the need for the assignment of additional personnel or that other steps must be taken in order to ensure the prompt disposition of cases, is a step in the right direction. But it is only that--a single step. Although the problems I have pointed out do not excuse Judge Grady's conduct in the case at hand, I believe that in the future, we may witness instances where in spite of mammoth efforts by circuit judges to promptly dispose of their cases within the limits set down by this court, they are unable to do so without the assistance I have mentioned.

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ALASKA STATE LEGISLATURE



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Senate Judiciary Committee

SPONSOR STATEMENT SENATE BILL 161 (3/29/01)

**"An Act relating to the withholding of salary of justices, judges, and magistrates;
relating to requiring prompt decisions by justices, judges, and magistrates;
and relating to judicial retention elections for judicial officers."**

SB 161 amends AS 22.05.140(b), AS 22.07.090(b), AS 22.10.190(b) and AS 22.15.220(c) to require judges to make decisions within four months instead of six months. It also requires appellate courts to make decisions within eight months. Additionally, it requires information to be published in the state voter's guide regarding the failure of any judge or justice to meet these time requirements.

Currently under AS 22.05.140(b), AS 22.07.090(b), AS 22.10.190(b) and AS 22.15.220(c), judicial officers are required to file an affidavit that no case or matter has been uncompleted or undecided for a period of more than six months in order to receive their salary. SB 161 would require cases to be completed within four months for justices and judges to receive their salary. At the appellate court level the time frame would be extended an additional four months for final decisions by the entire Court of Appeals or Supreme Court. The election pamphlet would be required to explain the procedure and indicate any judicial officer not issued one or more salary warrants.

The withholding of salary warrants is designed to ensure that justices and judges produce their decisions in a timely manner. Other states have similar laws. Unfortunately, there are Alaska Supreme Court cases that have been pending for over two years. The parties in these cases have completed their oral arguments and/or filing of the documents required and are simply waiting for the Supreme Court justice to make their decision. Justice delayed is truly justice denied.

This information is critical when voters are making decisions regarding the retention of judges. The public should be made aware of those justices and judges who are consistently late in making their decisions.

Dd/kk

SB

166



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT

SENATE BILL 166

"An Act relating to the time of filling by appointment a vacancy in the office of United States senator"

Senate Bill 166 amends current law to require a 5-day waiting period before the Governor may appoint an individual to fill a vacancy in the United States Senate. It is important to give the residents of Alaska an opportunity to voice their opinion on who is best suited to represent them in the U.S. Senate in the unlikely and unfortunate event of a vacancy occurring.

The Seventeenth Amendment of the United States Constitution grants state legislatures the exclusive authority to set the terms of temporary appointments to fill vacancies in the U.S. Senate.

Alaskans currently have an opportunity to choose a new U.S. Senator by a special election if a vacated U.S. Senate term is longer than 30 months. They have no guarantee of an opportunity to indicate their opinion on a replacement, however, if the remaining term is less than that period.

This legislation simply ensures a brief period in which Alaskans can express their opinions to the governor about whom they believe is the best person for a vacant U.S. Senate position. The governor still retains the power of appointment, but Alaskans will be guaranteed an opportunity to comment before he does so.

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SB

169



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

SPONSOR STATEMENT
SENATE BILL 169
(4/6/01)

“An Act relating to nonapplicability of the delinquency laws to certain minors accused of certain crimes directed at certain victims.”

SB 169 amends AS 47.12.030(a) to include a crime that is a felony or class A misdemeanor crime against a person directed at a victim because of that person’s race, sex, color, creed, physical or mental disability, ancestry, or national origin. This addition would require a minor accused of a serious, violent “hate crime” to be tried as an adult.

Violent hate crimes are particularly dangerous and destructive to our communities. This legislation ensures public accountability of those persons accused and increases deterrence of such future crimes. The juvenile justice system has no public accountability. We need public accountability for such crimes so Alaskans can be sure that justice is accomplished.

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Sec. 47.12.030. Provisions inapplicable. (a) When a minor who was at least 16 years of age at the time of the offense is charged by complaint, information, or indictment with an offense specified in this subsection, this chapter and the Alaska Delinquency Rules do not apply to the offense for which the minor is charged or to any additional offenses joinable to it under the applicable rules of court governing criminal procedure. The minor shall be charged, held, released on bail, prosecuted, sentenced, and incarcerated in the same manner as an adult. If the minor is convicted of an offense other than an offense specified in this subsection, the minor may attempt to prove, by a preponderance of the evidence, that the minor is amenable to treatment under this chapter. If the court finds that the minor is amenable to treatment under this chapter, the minor shall be treated as though the charges had been heard under this chapter, and the court shall order disposition of the charges of which the minor is convicted under AS 47.12.120(b). The provisions of this subsection apply when the minor is charged by complaint, information, or indictment with an offense

(1) that is an unclassified felony or a class A felony and the felony is a crime against a person;

(2) of arson in the first degree; or

(3) that is a class B felony and the felony is a crime against a person in which the minor is alleged to have used a deadly weapon in the commission of the offense and the minor was previously adjudicated as a delinquent or convicted as an adult, in this or another

jurisdiction, as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person or an offense in another jurisdiction having elements substantially identical to those of a crime against a person, and the previous offense was punishable as a felony; in this paragraph, "deadly weapon" has the meaning given in AS 11.81.900(b).

(b) When a minor is accused of violating a statute specified in this subsection, other than a statute the violation of which is a felony, this chapter and the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult; if a minor is charged, prosecuted, and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian shall be present at all proceedings; the provisions of this subsection apply when a minor is accused of violating

(1) a traffic statute or regulation, or a traffic ordinance or regulation of a municipality;

(2) AS 11.76.105, relating to the possession of tobacco by a person under 19 years of age;

(3) a fish and game statute or regulation under AS 16;

(4) a parks and recreational facilities statute or regulation under AS 41.21;

(5) AS 04.16.050, relating to possession, control, or consumption of alcohol; and

(6) a municipal curfew ordinance, whether adopted under AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for the violation of a municipal curfew ordinance, the court shall allow a defendant the option of performing community work; the value of the community work, which may not be lower than the amount of the fine, shall be determined under AS 12.55.055(c); in this paragraph, "community work" includes the work described in AS 12.55.055(b) or work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled.

(c) The provisions of AS 47.12.010 — 47.12.260 and the Alaska Delinquency Rules do not apply to driver's license proceedings under AS 28.15.185; the court shall impose a driver's license revocation under AS 28.15.185 in the same manner as adult driver's license revocations, except that a parent or legal guardian shall be present at all proceedings. (§ 46 ch 59 SLA 1996; am § 2 ch 72 SLA 1997; am § 1 ch 9 SLA 1998; am § 16 ch 107 SLA 1998)

SB

170

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 170
 (S) Publish Date: 4/17/01

Revision Date/Time (Note if correction): 04/12/2001 12:30p.m. Dept. Affected: DCED
 Title: Wage and Hour protections for employees of BRU: ARRC
the Alaska Railroad Component: _____
 Sponsor: Senate Labor and Commerce by request
 Requester: Senate Labor and Commerce Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Senate Bill 170 does not impact the state's budget because the Alaska Railroad does not require any state funding to operate. Alaska Railroad employees are paid for through corporate revenues. They are not covered by state public employee contracts, nor do they receive state-funded pensions and benefits. Approximately 545 of the Alaska Railroad's employees are represented by five unions that negotiate contracts with the corporation.

Prepared by: Wendy Lindskoog, Director External Affairs Phone (907)265-2498
 Division: Alaska Railroad Corporation Date/Time 04/12/2001 12:30p.m.
 Approved by: Commissioner Deborah B. Sedwick Date 4/12/2001
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

ALASKA RAILROAD CORPORATION



Corporate Address: P.O. Box 107500, Anchorage, Alaska 99510
327 W. Ship Creek Avenue, Anchorage, Alaska 99501

Senate Bill 170
Senate Labor and Commerce Committee by request

Sponsor Statement

Senate Bill 170 serves a dual purpose. It provides Alaska Railroad Corporation (ARRC) employees minimum wage and overtime protection by clarifying that the ARRC is regulated by Alaska's Wage and Hour Act (AWHA). SB 170 also enables locomotive engineers, conductors and brakemen, represented by the United Transportation Union (UTU), to opt out of the Wage and Hour Act if ARRC management and UTU members mutually agree to do so in a collective bargaining agreement.

The ARRC is exempt from the Fair Labor Standards Act, the federal law governing minimum wage and overtime, by virtue of an exemption in that act for employees of rail carriers. If the ARRC is regulated by Alaska's Wage and Hour Act, then ARRC employees will enjoy the wage and hour protections available to virtually all other employees.

Clarifying ARRC's status under the AWHA not only protects ARRC employees, it provides clear guidance to ARRC management with regard to employee relations. It also protects the ARRC from liability for unintentional violations of employee rights.

The exemption for UTU members provided by SB 170 would not leave UTU members unprotected with regard to hours worked. Unlike most other Alaska Railroad employees, UTU members are protected by the federal Hours of Service Act (HOSA). This Act prevents excessive or unreasonable work hours by limiting the number of hours employees can work to 12 consecutive hours without a required rest period. (American Train Dispatcher's Association are also covered by the HOSA, as are a few Transportation Communication Union members.)

The UTU exemption is mutually beneficial to the ARRC's operation and the UTU members. It would allow ARRC management and UTU representatives to negotiate an agreement allowing UTU employees to be paid on a basis other than an hourly basis (for example, a salary basis or a day rate). This arrangement would enhance UTU member retirement benefits. In exchange, the ARRC would eventually be able to operate trains with a two-person crew, mirroring railroad industry standards and contributing positively to the ARRC's bottom line.

ALASKA RAILROAD CORPORATION



Corporate Address: P.O. Box 107500, Anchorage, Alaska 99510
327 W. Ship Creek Avenue, Anchorage, Alaska 99501

March 30, 2001

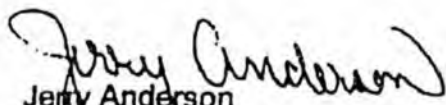
The Honorable Randy Phillips
Chair
Senate Labor and Commerce Committee
State Capitol, Room 103
Juneau, AK 99801-1182

Dear Senator Phillips:

On behalf of the Alaska Railroad Corporation and its employees, thank you for agreeing to support Senate Labor and Commerce Committee sponsorship of Senate Bill 170. We realize time is running very short until the end of session. With that in mind, we respectfully request a hearing for SB 170 by the Labor and Commerce Committee as soon as your scheduling permits.

We look forward to working with you on this issue.

Sincerely,


Jerry Anderson
Acting President and CEO



ALASKA PUBLIC EMPLOYEES ASSOCIATION/AFT(AFL-CIO)

State Headquarters/Juneau Field Office
211 Fourth Street, Suite 306, Juneau, Alaska 99801
Telephone (907) 586-2834, (800) 478-9921, Fax 469-4880

March 30, 2001

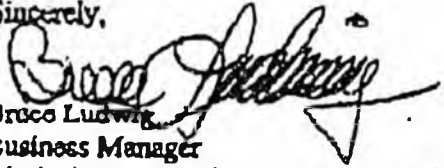
Senator Randy Phillips
Alaska State Capitol, Room 103
Juneau, AK 99801-1182

Dear Senator Phillips:

I am writing to let you know that Alaska Public Employees Association/AFT supports the legislation being proposed by the Alaska Railroad and the United Transportation Union which will clarify that employees of the corporation are covered by Alaska's Wage and Hour Act and which will also allow the train and engine men on the Railroad, represented by the United Transportation Union to opt out of the Wage and Hour Act if the parties mutually agree to do so in a collective bargaining agreement. I understand that the UTU employees are negotiating to work as exempt salaried employees. I also understand that the UTU employees are subject to the federal Hours of Service Act so there is no danger of excessive or unreasonable work hours for the employees involved.

Thank you for your attention to this matter.

Sincerely,


Bruce Ludwig
Business Manager
Alaska Public Employees Association/AFT

cc:
United Transportation Union (fax 279-7118)
Ann Courtney, Alaska Railroad (fax 265-2443)
Charles A. Dumagan (fax 563-7322)

Mar-28-01 03:56P John Henry

1-307-279-7118

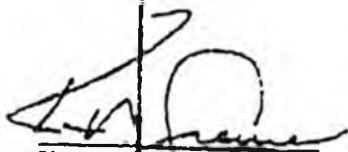
P.02

March 28, 2001

American Train Dispatchers Department/BLE
Alaska Railroad Corporation System
P.O. Box 671490
Chugiak Alaska 99567

The Alaska Legislature,

The A.T.D.D/BLE supports the amendment to AS 42.40.710 proposed by the United Transportation Union Local 1626 and the Alaska Railroad Corporation that states in part UTU employees are exempt from the AWA when mutually agreed to in a collective bargaining agreement.



K. H. Olsen
General Chairman
American Train Dispatchers Department/BLE

Mar-28-01 03:57P John Henry

1-907-279-7118

P.03



Alaska Railroad Workers Local 183

A.F.G.E./AFL-CIO

P.O. BOX 100035

Anchorage, Alaska 99510-0035

Phone (907) 272-8316

Fax (907) 274-5244

To: Alaska Legislation

March 23, 2001

From: Ed Rivera
President ARW

Subject: U.T.U. Wage Proposal

Dear Legislators

I would like to state that the ARW has looked over the proposed changes to AS 42.40.710, and met with the UTU attorney to discuss this issue. After consideration I have found nothing that would impact any of my members or any negative issues associated with this proposal. The ARW therefore supports the change in the law as it is outlined by the UTU. Thank you for your support in this important piece of legislation.

Sincerely

A handwritten signature in cursive script, appearing to read "Ed Rivera".

Ed Rivera
President ARW

Michael L. Weatherell
General Chairman

John T. Manning
Vice Chairman



Jefferson "Lee" Davis
Vice Chairman

Darren M. Rupo
Secretary

555 West Northern Lights #203
Anchorage, AK 99503

Phone 907-279-7117 Fax 907-279-7118
Email utu1626@pci.net

United Transportation Union

Local 1626

General Committee of Adjustment GO-ARR

The Alaska Railroad Corporation

MEMORANDUM

TO: Alaska Legislature

FROM: Mike Weatherell, General Chairman
United Transportation Union
Alaska Railroad

DATE: March 2, 2001

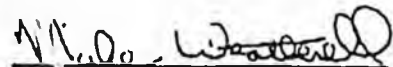
RE: Proposed Changes to AS 42.40.710.

I am General Chairman of the United Transportation Union Local 1626. The UTU represents conductors, engineers, firemen, and brakemen on the Alaska Railroad. We fully support the proposed amendment to AS 42.40.710, which would clarify that the Alaska Railroad is subject to Alaska's Wage and Hour Act and which would also provide a conditional exemption that could apply to our bargaining unit under special circumstances.

Historically, train and enginemen have been paid by the mile. That changed after the Alaska Railroad was purchased by the state. For a variety of reasons, both the Railroad and our members would like to return to a compensation system similar to the one we had. In order to do so, we have to be exempt from Alaska's wage and hour law. To protect both parties, we have provided that the exemption only applies when the agreement is "mutual" and when the agreement is codified into a bona fide collective bargaining agreement. That way, neither party can force an agreement on the other. In the absence of an agreement, Alaska's Wage and Hour Act would apply as it does now. There is also no danger to the public safety. Our members are subject to the federal Hours of Service Act which already governs the number of hours our members can be on the road, rest periods between shifts, etc. This is a win-win proposal for all concerned and I hope you can join us in supporting its passage.

I have worked closely with the other employee groups on the Alaska Railroad. It is my belief and understanding that all represented employees support the passage of this amendment to AS 42.40. Again, we urge your assistance and support.

Date: 5/5/01


Mik Weatherell, General Chairman
United Transportation Union
Alaska Railroad

1

2

3

4

5

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: CSSB 176 (L&C)
 () Publish Date: _____

Revision Date/Time (Note if correction): 04/26/2001 8:08a.m. Dept. Affected: DCED
 Title: An act relating to Distributorships BRU: Banking, Securities & Corporations
 Sponsor: Senate Labor & Commerce By Request Component: _____
 Requester: Senate Labor and Commerce Component Number: 1233

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This Legislation has no fiscal impact on this Department.

Prepared by: Franklin Terry Elder, Director
 Division: Banking, Securities & Corporations
 Approved by: Commissioner Deborah B. Sedwick
 Agency: Department of Community & Economic Development

Phone 907-465-2521
 Date/Time 04/26/2001 8:08a.m.
 Date 4/26/2001

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 176
 (S) Publish Date: 4/25/01

Revision Date/Time (Note if correction): 04/16/2001 2:35p.m. Dept. Affected: DCED
 Title: An act relating to Distributorships BRU: Banking, Securities & Corporations
 Component: Corporations
 Sponsor: Senate Labor & Commerce By Request
 Requester: Senate Labor and Commerce Component Number: 1233

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	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007

CHANGE IN REVENUES ()	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
	0.0	0.0	0.0	0.0	0.0	0.0

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						

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

ANALYSIS: (Attach a separate page if necessary)

This Legislation has no fiscal impact on this Department.

Prepared by: Franklin Terry Elder, Director Phone 907-465-2521
 Division: Banking, Securities & Corporations Date/Time 04/16/2001 2:35p.m.
 Approved by: Commissioner Deborah B. Sedwick Date 4/16/2001
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

SB

177

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. SB 177

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title BAC level for DWI BRU Alaska Court System
 Component Trial Courts
 Sponsor Senator Ward
 Requester Senate Judiciary Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	67.9	67.9	67.9	67.9	67.9	67.9
Travel						
Contractual	6.2	6.2	6.2	6.2	6.2	6.2
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	74.1	74.1	74.1	74.1	74.1	74.1

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	74.1	74.1	74.1	74.1	74.1	74.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	74.1	74.1	74.1	74.1	74.1	74.1

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Senate Bill 177 lowers the BAC necessary for a first offense DWI violation under 28.35.030 from .1 to .08. The bill also creates the crime of habitual driving while intoxicated. Under this new crime, a person previously convicted of a DWI can be subsequently convicted with a BAC level of .04. National studies show that a reduction from .1 to .08 typically results in a 10% increase in DWI filings. Based on that assumption, the court system would see an additional 500 misdemeanor filings a year and an additional 28 felony filings a year. This note reflects the additional judicial and jury costs associated with those increases. This note does not reflect any additional costs associated with habitual driving while intoxicated.

Although there are likely to be additional cases filed because of the .04 provisions contained in the offense of habitual driving while intoxicated, the extent of the increase is too speculative to support a fiscal note.

Prepared by: Douglas Wooliver
 Division: Alaska Court System
 Approved by: Stephanie Cole
 Agency: Alaska Court System

Phone 463-4750 264-8265
 Date/Time 4/24/01 9:30 a.m.
 Date _____

For distribution information, call the Governor's Legislative Office

Alaska Court System
 Fiscal Note Calculations for SB 177
 4/24/01

	FY02	FY03	FY04	FY05	FY06
<u>Superior Court:</u>					
50 Jurors 1.0 Days for Selection	1,250	1,250	1,250	1,250	1,250
14 Jurors for 1.5 Days of Court	525	525	525	525	525
12 Jurors for .5 Days of Deliberation	150	150	150	150	150
Deliberation Meal \$11/12 jurors + bailiff	143	143	143	143	143
Total per Superior Court Trial	2,068	2,068	2,068	2,068	2,068
Proposed # Superior Court Trials	3	3	3	3	3
Estimated Cost of Superior Court Trials	6,204	6,204	6,204	6,204	6,204
<u>District Court:</u>					
District Court Judge (5 Months) PPT	50,419	50,419	50,419	50,419	50,419
In-Court Clerk (5 Months) PPT	17,499	17,499	17,499	17,499	17,499
	67,918	67,918	67,918	67,918	67,918
Fiscal Note for 500 Misdemeanors + 3 Felony Trials	74,122	74,122	74,122	74,122	74,122



SENATOR JERRY WARD
ALASKA STATE LEGISLATURE

SB 177 SPONSOR STATEMENT

NO SECOND CHANCE

Operating a motorized vehicle under the influence of alcohol is a major problem in Alaska and can no longer be tolerated. Alaska ranks No. 5 in the nation for alcohol related incidences and first in the minds of its citizens. This legislation reduces the amount of alcohol a person can have in their blood while operating a motorized vehicle. SB 177 lowers the standard of the blood alcohol content (BAC) from .10 to .08 and substantially increases fines for first time offenders to \$1250. Significant research by the National Highway Traffic Safety Administration has shown that drivers are substantially impaired at .08 blood alcohol content and that by lowering the blood alcohol content level to .08 the number of fatal drunk-driving accidents does decrease.

SB 177 goes a step further and lowers the legal limit of blood alcohol content to .04 for those with one prior DWI conviction. Those convicted of a second offence will lose their driving privileges for life and pay higher fines. There will be no second chance. Basically this is a zero tolerance law for convicted drunk drivers making it illegal for them to drive after drinking one drink.

Drunk drivers have for years heard the warnings and have ignored them. We can no longer tolerate the loss of life. It is time that drunk drivers are held accountable and take responsibility for their actions.



Mothers Against Drunk Driving • Juneau Chapter

211 Fourth St. Suite 102 • Juneau, AK 99801

April 18, 2001

MADD thanks Senator Ward for sponsoring Senate Bill 177, "An Act relating to driving while intoxicated and to presumptions arising from the amount of alcohol in a person's breath or blood; and providing for an effective date."

MADD advocates implementation of administrative drivers license revocation or suspension laws for drivers whose BAC exceeds the legal limit defined by law.

MADD advocates a two-track system of penalties applied in both the administrative and criminal justice systems. Designed to reduce impaired driving by repeat offenders and deter those who have not been detected, the system would administer progressively more severe sanctions to deter offenders who have not been detected and reduce recidivism of those who have been detected."

According to a study backed by MADD done in Maine where the reduction of drunk driving occurred when the state changed their law to .05 BAC for repeat offenders. An offender in Maine loses their license for one year the first time and ten years thereafter. Automatic 2 year suspension for breathalyzer refusal.

1. Maine's repeat drunk driving offenses went down 25%.
2. Maine's fatally injured repeat drivers with .05 BAC+ went down 31%.
3. Maine's fatally injured repeat drivers with .15 BAC+ went down 35%.

MADD strongly supports Senate Bill 177 and urges this life-saving measure to become law.

Respectfully,

Cindy Cashen
MADD Juneau Chapter

SB

178

Alaska State Legislature

SENATOR
GENE THERRIALT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884

Senate District 0

Senate Bill 178

"An Act relating to the detention of delinquent minors and to temporary detention hearings; amending Rule 12, Alaska Delinquency Rules; and providing for an effective date."

SPONSOR: Senator Gene Therriault

SPONSOR STATEMENT:

The State of Alaska receives federal formula grant funding to implement the mandates of the Juvenile Justice and Delinquency Prevention Act of 1974. The four mandates of the Act include:

- Deinstitutionalization of status offenders
- Sight and sound separation of juveniles from adult offenders
- Removing juveniles from adult jail and lockup facilities
- Addressing disproportionate minority confinement

Alaska funds a variety of community based delinquency response services to meet these mandates including electronic monitoring programs, attendant care shelters and non-secure hold services, mentoring and community accountability courts.

Alaska stands to lose \$168,000 of these federal formula funds because of the number of youth temporarily held in rural and remote adult jails throughout Alaska prior to an initial court hearing and transport to a youth facility. This noncompliance could mean that Alaska will also lose discretion on how \$504,000 of federal money may be used. Federal law will require these funds to be rerouted and used to bring the state into compliance.

When a juvenile commits a serious offense in a rural or remote community, they may need to be detained upon arrest in order to protect the public. There are only 6 juvenile detention centers throughout Alaska, so serious juvenile offenders in remote communities often end up in village adult lockup facilities awaiting relocation to a juvenile facility. Federal regulations require that juveniles in adult facilities be held for no more than 24 hours; however, the regulations also allow a state to extend those time limits because of adverse weather, limited transportation options, and other conditions. Such an extension is only available in states where the juvenile must make an initial appearance in court within 24 hours of their arrest.

SB 178 would require an initial appearance in court within 24 hours for juveniles placed in an adult jail or lockup and would place the federal regulation exception language into state statute. This change would give Alaska the ability to claim certain exceptions to the federal mandates, preserve the state's eligibility for 100% of the federal formula grant allocation, but would not allow juveniles to be held in adult facilities any longer than is absolutely necessary.

Email: Sen

SPONSOR
STATEMENT

ato.ak.us

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884

Senate District 0

SB 178

Briefing Paper

- Alaska exceeds the number of violations associated with excessive time limits for juveniles held in adult jails or lockups. This jeopardizes Alaska's continued receipt of federal formula delinquency prevention grant funds.
 - Federal Formula Grant totals \$672.0
 - Grant funds support: attendant care shelters; mentoring programs; electronic monitoring; youth and elders courts.
- The Juvenile Justice and Delinquency Prevention Act of 1974 creates 4 primary mandates, including the removal of juveniles from adult jails. The regulations for the Act allow a state to claim certain exceptions to specified time limits if the state enacts a 24 hour arraignment for juveniles held in adult jails or lockups.
 - Senator Stevens Alaska Exemption to the 24 hour arraignment rule for juveniles in adult jails and lockups expire September, 2002.
- SB 178 established a 24 hour arraignment requirement for juveniles arrested and held in rural and remote adult jails and holding facilities and puts the federal regulation time exception language in the Delinquency statutes.
- SB 178 would not extend the periods of time for which juveniles might be held in adult lockups. Officials would continue to move juveniles from remote locations into regional juvenile detention centers as quickly and safely as possible. SB 178 simply gives Alaska access to regulatory time exceptions which lower violation rates and preserve federal funding.
- Youth held in juvenile detention centers would continue to be arraigned within 48 hours as provided under the current statute.
 - Establishing a two level delinquency arraignment system minimizes the fiscal impact and preserves Alaska's eligibility for full federal formula grant funding.
 - There were 2,728 juveniles detained in FY 2000. 222 of these were held for various periods of time in adult jails or lockups, most were moved to juvenile detention facilities within allowable time limits.
 - The violation rate can not be more than 9 "non-conforming" holds per 100,000 population. This would put Alaska's rate at 19.5. In FY 1998 we had a violation rate of 29.5 and in FY 1997 the violation rate was 38.2. These violations would be under the 19.5 rate if Alaska could claim the exceptions provided through enactment of a 24 hour arraignment requirement for juveniles held in adult jails or lockups.

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: April 6, 2001

FURTHER: Judiciary

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

DATE TURNED
IN TO OFFICE: _____

Health, Education and Social Services Committee considered **SENATE BILL NO. 178**

DETENTION OF DELINQUENT MINORS

"An Act relating to the detention of delinquent minors and to temporary detention hearings; amending Rule 12, Alaska Delinquency Rules; and providing for an effective date."

and recommends:

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

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

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	No REC	AMEND
<i>Complete</i> <i>WILSON</i>	✓			
<i>[Signature]</i> <i>WILSON</i>	✓			
<i>Bettye Davis</i> <i>DAVIS</i>	✓			
<i>[Signature]</i> <i>LEIMAN</i>	✓			
CHAIR: <i>[Signature]</i> <i>LEIMAN</i>	✓			

DETENTION EPISODES FOR FY2000

Offenses Under Jurisdiction of DJJ

Offense	Total Detained State Wide	Juveniles held in adult jails or lockups
Arson	5	1
Assault	412	18
Burglary	120	15
Concealment	11	7
Crim. Misch	72	2
Crim Trespass	23	3
Disorderly Conduct	20	3
Forgery	5	0
Harassment	1	0
Kidnap	1	1
MIW	24	0
MICS	74	14
Prob. Viol.	590	16
Resisting Arrest	18	
Rioting	1	
Robbery	13	
Sale of Alcohol	1	
Sexual Assault	17	2
Sex. Abuse Minor	22	3
Theft	198	9
Viol Valid Ct Ord	11	1
Viol Conditions Rel	108	
Murder	9	1
Bench Warrant - PV	96	
Weapons	2	
Mtr Vehicle Theft	36	1
Escape	3	
Terroristic Threat	8	2
Crim Neg Burning	1	
Crim Chg. Unspecified	1	
False Information	2	
Attempted Murder	1	
Unlawful Evasion	2	
Out of State Cr Warrant	1	
Coercion	1	
Viol DV Restraining ord	4	
Possession Stolen Prop	1	
Indecent Viewing	1	
Domestic Viol Assault	77	17
DJJ Subtotal:	1993	116

Note: The projected number of detention episodes occurring between Friday 3 p.m. and Midnight of FY2000 potentially requiring a weekend arraignment is 31 cases.

DETENTION EPISODES FOR FY2000

Offenses Under District Court Jurisdiction

Offense	Total Detained State Wide	Juveniles held in adult jails or lockups
Offense	Totals	
Bench Warrant -FTA	62	6
Bench Warrant -Traffic	1	0
DWOL	17	2
DWLS	8	8
DWI	40	12
FTA	14	0
Reckless Driving	11	3
Serve Time	8	3
Traffic Criminal	17	17
Dist Court Subtotal:	178	51

Miscellaneous Categories

Prg. Discipline	43	
Medical Transfer	3	
Transfer from other fac.	28	
On Pass	3	
INS Hold	2	
INS Hold for deportation	2	2
Prerelease Pgm	1	
Miscellaneous Subtotal:	82	2

Total: 2253 135

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 178
 (S) Publish Date: 4/23/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
 Title: Relating to the Detention of Minors BRU: Juvenile Justice
 Component: Delinquency Prevention
 Sponsor: Sen. Therriault
 Requester: Senate (HES) Component Number: 248

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Alaska receives approximately \$670,000 per year through the Juvenile Justice and Delinquency Prevention Act (Act) formula grant program which supports activities related to the four mandate areas under the Act: 1. Deinstitutionalization of status offenders, 2. Separation of juveniles from adult offenders, 3. Removing juveniles from adult jail and lockup facilities, and 4. Disproportionate minority confinement. If a state fails to comply with standards set for each of these four mandates, a grant withholding penalty of 25% is assessed against the formula grant total for each mandate in which the state is found to be in non-compliance. Additionally, failure to correct areas of non-compliance will require all remaining funds be directed to efforts to bring the state into compliance with the Act.

Prepared by: George Buhite, Director
 Division: Juvenile Justice
 Approved by: Elmer A. Lindstrom, Special Assistant
 Agency: Department of Health & Social Services

Phone 465-1385
 Date/Time 3/14/01 7:58 AM
 Date 4/12/01 4:44 PM

For distribution information, call the Governor's Legislative Office

ANALYSIS: (continued)

Alaska has difficulty meeting the established compliance standards related to the removal of juveniles from adult jails and lockup facilities. Because of Alaska's expansive geography, limited transportation services in many rural parts of the state, adverse weather conditions which impact transportation, and the fact there are only 6 youth detention facilities in Alaska, the state stands to lose approximately \$168.0 in federal grant receipts due to non-compliance with jail removal mandates under the JJDP Act.

The Act allows a state to receive full formula grant funding if, through application of certain compliance exceptions, the number of violations remain below the limits set by federal regulation. In order to take advantage of the jail removal compliance exceptions the state must have a law requiring that juveniles placed in an adult facility be brought before the court within 24 hours of their placement. These exceptions provide a set of allowable circumstances under which a juvenile may be held in an adult facility without incurring a non-compliance violation of the jail removal mandate of the Act. These exceptions allow a juvenile to be held for longer periods as a result of limited transportation services, adverse weather conditions or other circumstances which contribute to delays in moving juvenile offenders out of inappropriate adult facilities into youth detention facilities. This bill proposal would enact a 24 hour arraignment in these juvenile cases, places the mandate exceptions provided in the federal regulations in state statute, and would preserve Alaska's ability to claim full funding of the federal grant award under the Act.

SB

191

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 191
 (S) Publish Date: 5/2/01

Revision Date/Time (Note if correction): 04/13/2001 4:35p.m. Dept. Affected: DCED
 Title: An Act relating to insurance pooling by BRU: Insurance
members of an airline employers association. Component: Insurance Operations
 Sponsor: Senator Taylor
 Requester: Senate Labor & Commerce Component Number: 354

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

AS 21.76.020(a) provides: "A joint insurance arrangement may not be considered insurance for the purpose of any other law of the state and is not subject to regulations adopted by the director."

Therefore, this legislation will have no fiscal impact on the department.

Prepared by: Robert A. Lohr, Director Phone 907-269-7900
 Division: Insurance Date/Time 04/13/2001 4:35p.m.
 Approved by: Commissioner Deborah B. Sedwick Date 4/13/2001
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

SB

204

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB204
 () Publish Date: _____
 Dept. Affected: Natural Resources
 BRU: Forestry Mgt & Dev
 Component: Forest Mgt & Dev
 Component Number: 435

Revision Date/Time (Note if correction): _____
 Title: Wildfires & Natural Disasters
 Sponsor: Senator Green
 Requester: (S) JUD

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING						**Indeterminate

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

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

Estimate of any current year (FY2002) cost: Indeterminate
 Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

**** Fiscal impact is indeterminate but could potentially be very high in the advent of adverse litigation. Potential liability exposure to the state would exist for each wildland fire evacuation should there be injuries or loss of life resulting from individual decisions on evacuation. Costs of ensuring legal documentation, training of personnel, development of consistent application, etc. would be incurred.**

Prepared by: Dean Brown Phone 289-8476
 Division: Forestry Date/Time 1-Apr-02
 Approved by: Pat Pourchot Date 5-Apr-02
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 204
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to wildfires and other ne BRU Risk Management
natural disasters Component Risk Management
 Sponsor Senators Green, Taylor
 Requester Senate Judiciary Component No. 71

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

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)

The state's self insurance program for tort liability exposures will be affected by this bill.

The immunity provision is limited to the injury or death of the person who refuses to evacuate or enters or reenters an area threatened or affected by wildfire or natural disaster. It does not extend to claims for property damage or third party claims and is unclear whether it would preclude derivative actions by spouses and dependents of those permitted to remain or reenter.

The fiscal impact is indeterminate for a low frequency yet potentially high severity risk.

Prepared by: J. Brad Thompson, Director Phone 465-5723
 Division Risk Management Date/Time 4/4/02 4:10 PM
 Approved by: Jim Duncan, Commissioner Date 4/4/2002
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 204
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to wildfires and other natural disasters." BRU Civil Division
 Component Special Litigation
 Sponsor Senator Green
 Requester Senate Judiciary Committee Component No. 2213

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

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)
 SB 204 allows a resident of an area threatened by wildfire or natural disaster, under certain circumstances, to refuse to evacuate the area or be permitted to reenter the area.

 As is discussed in more detail in Risk Management's fiscal note, the state's self insurance program for tort liability exposures will be affected by this bill. The Special Litigation section of the Department of Law defends the state in tort cases. While we are unable to quantify the fiscal impact, cases arising from passage of this legislation, although likely to be few in number, would be very fact intensive and require significant resources to investigate, prepare for, and defend.

Prepared by: Joan M. Kasson Phone (907) 485-5370
 Division: Attorney General's Office Date/Time 4/5/02 2:58 PM
 Approved by: Kathryn Daughetee for Bruce M. Botelho, Attorney General Date 4/5/2002
 Agency: Department of Law

ALASKA STATE LEGISLATURE

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



Session:

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

SENATOR LYDA GREEN

SENATE DISTRICT N

SPONSOR STATEMENT SENATE BILL 204

"AN ACT RELATING TO WILDFIRES AND OTHER NATURAL DISASTERS"

SB 204 was introduced to address the concerns of private property owners and residents during emergency management of wildfires and disaster areas. This legislation places language in statute that more equitably balances the rights of private property owners and residents with the demands of emergency personnel to protect life and property.

The bill establishes statutory guidelines for private property owners and emergency personnel during wildfires and natural disasters. SB 204 provides that an adult resident or property owner:

- May choose not to evacuate an area;
- Shall be permitted to enter a threatened area, if entry does not interfere with emergency personnel; the resident or land-owner provides proof of residency or property ownership; and is informed that entry or reentry is at the resident's own risk.

SB 204 also provides statutory protections for all emergency personnel from liability if a property owner or resident is injured or killed due to choosing not to evacuate or choosing to reenter an area threatened or affected by wildfire or natural disaster.

Senator_Lyda_Green@legis.state.ak.us

Alexander Creek • Big Lake • Butte • Castwell • C
knik • Kashwitna • Lake Louise • Lazy Mountain • N
Sheep Mountain • Skwentna • Sunshine •

SPONSOR STATEMENT

ke • Goose Bay • Hatcher Pass • Houston
Ichina • Palmer • Petersville • Point Mackenzie
• Trapper Creek • Wasilla • Willow

May 27, 1999

Senator Lyda Green
Representative Scott Ogan

Subject: State Troopers / Clark Wolverine Fire

This month, the residents of the Lazy Mountain area of the Mat-Su Borough experienced a forest fire that threatened their families and property. Unfortunately, equally traumatic was their interaction with the State Troopers during this emergency while the Troopers controlled the use of Clark Wolverine Road. Only emergency vehicles were allowed to use the road during this period. The school buses had already left children at their homes, but parents were not allowed to their homes to be with their children. One child was a wheelchair bound girl. Many people walked through the woods to get around the Trooper blockade at Smith Road so they could go home to protect families and property.

Todd Pettit, while stopping to request permission to go to his farm (Pitchfork Ranch), was arrested, jailed overnight, and portrayed as a criminal by the TV and newspapers. He was trying to help his grandfather and neighbors fight the fire and protect their farm on which they had 13 horses and 5 buffalo. This incident is on video tape which Ken Goldman his lawyer has. Currently he and his wife cannot talk about this until the charges are resolved in court. Due to the high cost of justice for him, he will be forced to accept guilt charges so he can continue farming this summer.

His grandfather, John Seemann, fought the fire with a water bucket and his jacket with his neighbor and was able to save his neighbor's house. Firefighting crews later arrived to continue the firefighting. Troopers were brought in and he was told to leave voluntarily or they would arrest him. He returned to his farm as it could not be left unattended. His statement is in the Frontiersman.

A man walked up Wolverine Ck. to go to his fathers to use to dozer to fight the fire. A State Trooper apprehended him, then drove with him to the blockade a Smith Road. Later he was able to speak to one of the Fire fighters and was permitted to go to the dozer and fight the fire.

There are other stories of Trooper threatening to shoot a lady's horse if she didn't "get it out of the way".

This all sounds like a repeat of Millers Reach Fire by the Troopers.

1. Please call a public meeting where residents can report incidents. This information than can be compiled for further investigation or to improve emergency response efforts.

2. After reviewing the performance of State Troopers at two major fires, the public requests that State Troopers not be allowed to prevent people to access their property and that State Troopers not be given authority to remove a person from their property during any emergency.

3. The State Troopers and the State Division of Forestry provided no ir,formation to the public. Continuous updated information needs to be made available to the public. A lady in the Butte last week illustrated this point in a letter to the editor of the Frontiersman.

Sincerely,
Newton Bingham
P.O. Box 1994
Palmer, AK 99645
745-2587

**INFORMATION
STATEMENT**

SB

223

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 223
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An Act referencing the award of good time and BRU Administration and Operations
restricting release on mandatory..." Component All
 Sponsor Senator Donley
 Requestor Senate Judiciary Committee Component No. 694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	60.3	60.3	60.3	60.3	60.3	60.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous				341.3	648.0	648.0
TOTAL OPERATING	60.3	60.3	60.3	401.6	708.3	708.3

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	60.3	60.3	60.3	401.6	708.3	708.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	60.3	60.3	60.3	401.6	708.3	708.3

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)

See attached.

Prepared by: Bruce Richards
 Division: Commissioner's Office
 Approved by: Maragarot M. Pugh
 Agency: Corrections

Phone: _____
 Date/Time: 2/8/02 4:10 PM
 Date: 2/8/02

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 223

ANALYSIS CONTINUATION

Assumptions:

1. The Dept. of Corrections estimates that approximately 200 inmates convicted per year will be subject to the diploma/G.E.D requirement contained in sections one and two of SB 223. This number was arrived at by assessing data submitted by the Dept. of Corrections to the Bureau of Justice for the Violent Offender Incarceration Act (VOIA) grant. The VOIA grant application does not count inmates who have received a life sentence or some crimes that would still bring a sentence of two or more years. Therefore the 200 inmate number is believed to be conservative as there are inmates who receive 2 year or greater sentences that are not included.

2. Assuming 35% of the 200 inmates would already have their diploma/G.E.D, the remaining 130 inmates would be subject to the requirements in SB 223 and would risk losing their statutory good time credit if they failed to obtain their diploma/G.E.D prior to their mandatory parole release date.

3. Assuming that eight percent of the 130 remaining inmates were incapable of obtaining a diploma/G.E.D the number would be reduced to 120. It is estimated that an additional 9 inmates would be eliminated because they do not speak english and due to their social background. The remaining number subject to the provisions of SB 223 would be approximately 111. Incapable is not defined in this legislation and is assumed by the Dept. of Corrections that it means mentally incapable.

It is estimated it will cost approximately \$5,500 in contractual services to administer the Test of Adult Basic Education (TABE) to assess the 111 inmates literacy/education level.

It is estimated it will cost approximately \$8,000 in contractual services per year to make determinations whether an inmate is capable of obtaining a diploma/G.E.D.

It is estimated it will cost approximately \$46,800 in contractual services for teaching/tutoring services in addition to current DOC expenditures for educational services.

It is estimated that approximately fifteen percent (16 inmates) of the 111 inmates participating will fail/refuse to obtain their diploma/G.E.D. each year. Estimating the average sentence for these inmates at five years, they would not be eligible for the one-third statutory good time deduction and would remain incarcerated for an additional 450 days (one-twelfth deduction) at a cost of \$40,500 per inmate (half at institution rate / half at CRC rate = \$90 per day).

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SSSB 223
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act relating to good time and relea BRU Legal and Advocacy Services
mandatory parole..." Component Public Defender Agency
 Sponsor Senator Donley
 Requestor (S) JUD Component No. 1831

Expenditures/Revenues (Thousands of Dollars)

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

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

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

1002 Federal Receipts						
1003 GF Match						
1004 GF
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL

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)
 See attached sheet.

Prepared by: Barbara Brink, Director Phone (907) 334-4418
 Division Public Defender Agency Date/Time 2/8/02 4:40 PM
 Approved by: Jim Duncan, Commissioner Date 2/8/2002
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SSSB 223

ANALYSIS CONTINUATION

This legislation would increase punishment for prisoners who fail to obtain a high school degree or equivalent. The bill would make prisoners sentenced to a term or terms of imprisonment of two or more years without high school diplomas or GEDs receive far less good time for mandatory release parole than prisoners who either came to jail with a degree or earned one while incarcerated. To earn one-third off in good time a prisoner must either attain a high school diploma or GED equivalent before incarceration or while incarcerated if the program is "made available" to the prisoner, or be "incapable of attaining" a diploma or its equivalent, or does not speak English as the primary language and because of his/her "age or social background", cannot reasonably be expected to obtain a diploma or equivalent. If the prisoner is not eligible for one-third off under the criteria above, the prisoner is eligible to receive only one-twelfth off for good time. The bill does not say who checks out the prisoners' high school and GED records, who decides whether prisoners are "incapable" of obtaining diplomas, or who decides whether the Department of Corrections made programs available to prisoners.

Because of these uncertainties, the Public Defender Agency does not know if the courts would appoint the Agency to represent prisoners affected by this bill if it were enacted. Therefore, an indeterminate fiscal note is submitted.

Under current law (AS 12.55.015(a)(10)), prisoners can be ordered by the court to participate in rehabilitative programs if they are made available by the Department of Corrections. If prisoners do not participate, their mandatory release parole can be "anticipatorily" revoked (revoked before the prisoner is released). AS 33.16.220(a)(Anticipatory revocation is equivalent to a loss of all of a prisoner's "good time" credits.) The Parole Board makes the decision on whether mandatory release parole is revoked. The prisoner has a right to an appointed attorney - usually the Public Defender Agency. The anticipatory revocation process was approved by the Alaska Court of Appeals in Webb v. State, 963 P.2d 1074 (Alaska App. 1998) and Gwalthney v. State, 964 P.2d 1285 (Alaska App. 1998).

On the other hand, the Public Defender Agency does not represent prisoners in lawsuits or hearings about conditions of confinement, transfers, and in prison disciplinary matters. AS 18.85.100

Because the Agency is uncertain about which of the above categories this legislation belongs in, we are submitting an indeterminate fiscal note.




SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

DATE: February 7, 2002

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee

FROM: Senator Dave Donley 

RE: Work Draft CSSSSB 223() "J" Version, "An Act limiting the award of good time and restricting release on mandatory parole for prisoners serving certain sentences who fail to attain certain minimum educational standards; providing that prisoners having attained or attaining those educational standards receive good time awards and availability of release on mandatory parole of one-third of the term of imprisonment rounded off to the nearest day; and providing for an effective date."

Attached for your consideration is a work draft of CSSSSB 223, version "J." Version J contains one change from the original version first introduced to the committee.

The newest version changes the minimum amount of good time from 1/12th (8 %) to 1/6th (17%) to put Alaska in line with the national standard of 15%, or a minimum of 85% of total time served.

Attached with the proposed work draft is a sponsor statement reflecting the changes in this new version, a current list of statutes, as well as a list of states that require the minimum of 85% of total time to be served. Thank you for considering this legislation and if you have any questions, please do not hesitate to call my office.

DD:jg

cc: Senate Judiciary Members

Co-Chair: Senate Finance Committee

Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council

22-LS0997J
Luckhaupt
2/5/02

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 223()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR DONLEY

A BILL

FOR AN ACT ENTITLED

1 "An Act limiting the award of good time and restricting release on mandatory parole for
2 prisoners serving certain sentences who fail to attain certain minimum educational
3 standards; providing that prisoners having attained or attaining those educational
4 standards receive good time awards and availability of release on mandatory parole of
5 one-third of the term or terms of imprisonment rounded off to the nearest day; and
6 providing for an effective date."

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

8 * Section 1. AS 33.16.010(c) is amended to read:

9 (c) A prisoner who is not eligible for discretionary parole, or who is not
10 released on discretionary parole, shall be released on mandatory parole for the term of
11 good time deductions credited under AS 33.20 [,] if the prisoner is eligible under (a)
12 of this section [TERM OR TERMS OF IMPRISONMENT ARE TWO YEARS OR
13 MORE].

1 * Sec. 2. AS 33.20.010(a) is amended to read:

2 (a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner
3 convicted of an offense against the state or a political subdivision of the state and
4 sentenced to a term or terms of imprisonment

5 (1) of two years or more [THAT EXCEEDS THREE DAYS] is
6 entitled to a deduction of either

7 (A) one-third of the term or terms of imprisonment rounded
8 off to the nearest day if the prisoner follows the rules of the correctional
9 facility in which the prisoner is confined and the prisoner either

10 (i) attains or has attained a high school diploma, a
11 general education development diploma, or an equivalent diploma
12 before being incarcerated or while incarcerated if the program is
13 made available to the prisoner;

14 (ii) is incapable of attaining a diploma or its
15 equivalent; or

16 (iii) does not speak English as the prisoner's primary
17 language and, due to the prisoner's age and social background, the
18 commissioner determines that the prisoner cannot reasonably be
19 expected to meet an educational requirement; or

20 (B) one-sixth of the term or terms of imprisonment rounded
21 off to the nearest day if the prisoner follows the rules of the correctional
22 facility in which the prisoner is confined and the prisoner does not qualify
23 for a one-third deduction under (A) of this paragraph;

24 (2) that exceed three days but less than two years is entitled to a
25 deduction of one-third of the term or terms of imprisonment rounded off to the
26 nearest day if the prisoner follows the rules of the correctional facility in which
27 the prisoner is confined. [A PRISONER IS NOT ELIGIBLE FOR A GOOD TIME
28 DEDUCTION IF THE PRISONER HAS BEEN SENTENCED TO A

29 (1) MANDATORY 99-YEAR TERM OF IMPRISONMENT UNDER
30 AS 12.55.125(a) AFTER JUNE 27, 1996; OR

31 (2) DEFINITE TERM UNDER AS 12.55.125(l)].

1 * Sec. 3. AS 33.20.010 is amended by adding a new subsection to read:

2 (c) A prisoner is not eligible for a good time deduction if the prisoner has been
3 sentenced to a

4 (1) mandatory 99-year term of imprisonment under AS 12.55.125(a)
5 after June 27, 1996; or

6 (2) definite term under AS 12.55.125(l).

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

9 APPLICABILITY. The changes made to AS 33.16.010 and AS 33.20.010 by this Act
10 apply to persons convicted of crimes committed on or after the effective date of this Act.

11 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

**Sponsor Statement
for Work Draft CSSSB 223 ()
"Requiring Literacy as an Eligibility for
Parole or Good Time Credit"
02/07/02**

Senate Bill 223 would require convicted prisoners serving a term of two years or more to obtain a high school diploma or a general education development (G.E.D) diploma before receiving the current statutory one-third (about 33%) maximum amount of good time sentence reduction or mandatory parole. If a person fails to qualify for the current one-third good time reduction due to failure to obtain a G.E.D., they will still be eligible for one-sixth (about 17%) reduction in sentence for good behavior. The 1/6th minimum reduction is still more generous than the national standard 15% maximum reduction (which requires that at least 85% of a sentence be served).

National studies indicate that roughly two-thirds of today's prison inmates are functionally illiterate. These studies further point out a strong correlation between illiteracy and criminal behavior and show recidivism rates to be much higher for low-level literacy criminals.

In 1983, Alabama conducted an investigation on recidivism on 129 inmates who had taken post-secondary education courses while incarcerated. The recidivism rate was 3.9% for those 129 individuals compared to a 25% rate for all others released by Alabama that same year.

SB 223 seeks to reduce the recidivism rate for Alaska's correctional facilities by encouraging prisoners to obtain their G.E.D., thereby increasing their chances of successfully re-integrating back into society when they are released. Those who choose not to obtain their G.E.D. would forfeit a portion of their "good time" credit.

Under Alaska statute 33.20.10, a prisoner is entitled to a deduction of one-third of the term of imprisonment if the prisoner follows the rules of that correctional facility. This is known as a "good time" credit. Alaska has one of the most liberal "good time" provisions in the nation. Alaska's one-third sentence reduction for "good time" equates to requiring offenders to serve only 67% of their sentences. This is quite low compared to federal statutes that require federal offenders to serve at least 85% of the sentence imposed. Additionally thirty states also require at least 85% of the sentence be served.

Co-Chair: Senate Finance Committee

Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council

Senate Bill 223
Sponsor Statement
Page 2

Over ten states have adopted various policies that offer sentence reductions for participation in educational programs. These incentives link prison privileges and parole considerations to participation in educational programs.

Under SB 223 prisoners would not be subject to a reduction in good time if the inmate:

- has already received a high school diploma or its equivalent;
- is incapable of obtaining a G.E.D.;
- does not speak English as their primary language; and
- due to their age and social background cannot reasonably obtain the educational requirement.

The Department of Corrections' fiscal note estimates that SB 223 would increase overall inmate sentences. I doubt the impact would be anywhere near as much as the Department guesses. Instead I think a greater number of inmates will seek to obtain a G.E.D.

SB 223 is pro-active legislation designed to reduce crime and the recidivism rate in Alaska through encouraging literacy among imprisoned criminal offenders. Lower recidivism means safer Alaskan communities.

DD/jg

States with 85 percent of term of imprisonment

Arizona
California
Connecticut
Deleware
Florida
Georgia
Illinois
Iowa
Kansas
Kentucky
Louisiana
Maine
Michigan
Minnesota
Mississippi
Missouri
New Jersey
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
South Dakota
South Carolina
Tennessee
Utah
Virginia
Washington

Distributed by Senator Donley CSSSSB 223

Distributed by Senator Donley CSSSSB223 ()

Chapter 33.16. PAROLE ADMINISTRATION

***ADMINISTRATIVE CODE.

For Alaska board of parole, see 22 AAC 20.

Collateral Refs -

59 Am. Jur. 2d, Pardon and Parole, Sec. 1 et seq.

67A C.J.S., Pardon and Parole, Sec. 1 et seq.

Decisions -

Cited in *Wilson v. State*, 944 P.2d 1191 (Alaska Ct. App. 1997).

Sec. 33.16.010. Parole.

(a) A prisoner who is serving a term or terms of two years or more is eligible for mandatory parole.

(b) A prisoner who is eligible under AS 33.16.090 may be granted discretionary parole by the board of parole.

(c) A prisoner who is not eligible for discretionary parole, or who is not released on discretionary parole, shall be released on mandatory parole for the term of good time deductions credited under AS 33.20, if the term or terms of imprisonment are two years or more.

(d) A prisoner released on special medical, discretionary, or mandatory parole is subject to the conditions of parole imposed under AS 33.16.150. Parole may be revoked under AS 33.16.220.

(e) A prisoner eligible under AS 33.16.085 may be released on special medical parole by the Parole Board.

History -

(Sec. 2 ch 88 SLA 1985; am Sec. 1, 2 ch 77 SLA 1987; am Sec. 2, 3 ch 70 SLA 1995)

Amendment Notes -

The 1995 amendment, effective September 3, 1995, inserted "special medical," in subsection (d) and added subsection (e).

Editors Notes -

Sections 1 and 2, ch. 47, SLA 1988, provide that the provisions of subsections (a) and (c) of this section, as amended by ch. 77, SLA 1987, apply retroactively to prisoners incarcerated on or after September 13, 1987, irrespective of the law in effect at the time the prisoner committed the offense for which the prisoner was incarcerated.

History Reports -

For House letter of intent related to the enactment of this section, see 1985 House Journal, p. 821.

Decisions -

Mandatory parole, as its name suggests, is required by statute, and a parolee has no right to refuse mandatory release from prison. *State v. Staael*, 807 P.2d 513 (Alaska Ct. App. 1991).

Parolee was not entitled to an in-person hearing before standard conditions of parole could be imposed, and his parole was properly revoked after he violated standard conditions of parole by leaving the state and failing to report. *State v. Staael*, 807 P.2d 513 (Alaska Ct. App. 1991).

Distributed by Senator Donley CSSSSB223 ()

Jurisdiction of board over parolee. - Where defendant was charged with a violation while he was still on mandatory parole under this section and notice of the violation was served and resolved at a parole revocation hearing while the board of parole retained jurisdiction over defendant under AS 33.16.200, the validity of the board's action did not hinge on whether defendant was deemed to have been technically on parole at the time of the hearing. *Gyles v. State*, 901 P.2d 1143 (Alaska Ct. App. 1995).

Quoted in *Wilson v. State*, 944 P.2d 1191 (Alaska Ct. App. 1997).

Cited in *State v. Stores*, 816 P.2d 206 (Alaska Ct. App. 1991); *Morrison v. State*, 7 P.3d 955 (Alaska Ct. App. 2000).

SB

230

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 230
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: EED
 Title Psychotropic Drugs for Children BRU Teaching and Learning Support
 Component Special & Supplemental Services
 Sponsor Davis
 Requester S HES Component No. 166

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2002) cost: 00
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would prevent school personnel from recommending the use of psychotropic drugs for students demonstrating emotional or behavioral concerns. It also requires that if school personnel perceive that a student may have a behavioral or psychological problem, a letter be sent to the parent recommending an appropriate medical or behavioral evaluation. The bill's sponsor has indicated that the bill will not prevent appropriately trained school personnel, such as school psychologists or school nurses, from discussing factors related to medication with parents as part of their normal duties. While no expense is expected for the department since no additional duties are required for departmental staff, the requirement of a letter will have some fiscal impact on local school districts.

Prepared by: Greg Maloney, Special Education Administrator Phone 465-2972
 Division Teaching and Learning Support Date/Time 3/1/02 4:56 PM
 Approved by: Ed McLain, Deputy Commissioner of Education Date 3/1/2002
 Agency Department of Education & Early Development

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 230
 () Publish Date: _____

Revision Date/Time (Note if correction): 1/16/2002 9:11 am Dept. Affected: Health & Social Services
 Title: PSYCHOTROPIC DRUGS FOR TREATMENT OF CHILDREN IN BRU: Purchased Services
NEED OF AID Component: Foster Care Special Need
 Sponsor: DAVIS
 Requestor: SENATE (HES) Component Number: 2238

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2002) cost: _____
 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)
 Section 1 of this bill does not impact this department. Sections 2 and 3 amend CINA statute AS 47.10.019. This statute places limits on the court's determinations in finding a minor to be a child in need of aid. This amendment adds a subsection which prohibits the court from finding a minor to be a child in need of aid and prohibits the department from taking custody of a child solely on the basis of an allegation or finding that the child's parent or legal custodian refuses to administer or consent to the administration of psychotropic medication.
 Should this bill become law, the department does not anticipate any fiscal impact. The bill has impact on practice only.

Prepared by: Debbie Loveid Phone _____
 Division: Family & Youth Services Date/Time _____
 Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 01/24/2002
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

ALASKA STATE LEGISLATURE

Senate
Health, Education &
Social Services
Committee

Senate
Labor & Commerce
Committee

Senate
State Affairs
Committee



SENATOR BETTYE DAVIS

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Senate Bill SB 230

"An Act relating to recommending or refusing psychotropic drugs as a treatment for children and to the evaluation and treatment of children with behavioral or psychological problems."

Sponsor Statement

The use of psychiatric drugs in our nation's schools has more than doubled in the first half of the last decade and continues to escalate. There are documented incidences of highly negative consequences in which psychiatric prescription drugs have been utilized for what are essentially problems of discipline, which may be related to a variety of causation. There is also parental concern regarding the issue of diagnosis and medication and their impact on student achievement.

In recognition of the importance that only physicians should make psychiatric diagnoses of behavioral problems, recommend psychiatric screening for specific behavioral problems, and suggest the use of psychiatric medication for a student, this bill would require school boards to adopt policies on recommendations that a student be given psychotropic drugs. It would also prohibit a child from being considered a child in need of aid or taken into state custody based on the refusal of the child's custodian to give psychotropic drugs to the child.

Alaska State Legislature

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Senator [Bettye Davis@legis.state.ak.us](mailto:Bettye_Davis@legis.state.ak.us)
<http://www.akdemocrats.org>

Senator Bettye Davis

Sectional Analysis Senate Bill 230

Section 14.30.171 continues to prohibit school personnel from recommending or requiring that a child take or continue to take Psychotropic drugs in order to continue attending school.

Section 14.30.172 takes into account the concerns of the department of education as far as allowing school personnel to talk to each other about a child, continue to have authority over someone who has been suspended or expelled and more importantly inform the child's parent or guardian of any perceived behavioral problem as long as they don't violate the previous section (14.30.171) or create problems for the parent or guardian about their decision to not have their children use psychotropic drugs.

Section 14.30.174 spells out what mental health professionals working within schools are allowed to do.

Section 14.30.176 allows a school district to create and give parents a list of community resources, including mental health services if they so choose. There is some disclaimer wording that has to be used if mental health services are included.

Section 14.30.177 refers to possible sanctions for violations of these sections.

Section 14.30.179 is the definition section.

Section 47.10.019 prohibits the courts from finding a minor to be a child in need of aid based solely on an allegation that the child's parent or guardian refuses to consent to the use of psychotropic drugs; or get a psychiatric evaluation or allow any psychiatric, behavioral or psychological treatment for the child

Sectional Analysis

SB

231

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB231
(S) Publish Date: 3/22/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title: An Act relating to correctional facilities BRU: Administration and Operations
Component: ALL
Sponsor: Senator Green, Elton
Requester: Senate C&RA Committee Component No.: #0694

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	284.0	294.7	305.8	317.3	0.0	0.0
Travel						
Contractual	159.1	0.0	0.0	18,971.2	18,971.2	18,971.2
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	83.6	70.0	70.0	53,401.1	53,331.1	53,331.1
TOTAL OPERATING	526.7	364.7	375.8	72,689.6	72,302.3	72,302.3

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	526.7	364.7	375.8	72,689.6	72,302.3	72,302.3
1156 Receipt Services						
1037 GF/Mental Health						
1050 PFD Fund						
TOTAL	526.7	364.7	375.8	72,689.6	72,302.3	72,302.3

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	4	4	4	329	325	325
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill authorizes the Department of Corrections to enter into twenty-year lease agreements with the Fairbanks North Star Borough, Matanuska-Susitna Borough, City and Borough of Juneau, Bethel, Ketchikan Gateway Borough, Seward, and Kenai Peninsula Borough for up to 1,138 beds at state correctional facilities.

Assume that the local government agencies will fund the costs of the new or expanded correctional facilities construction through local bond sales backed by the state leases. Costs of construction not to exceed \$155,000 per bed. Cost of annual lease payments to each facility may not exceed \$16,700 per bed.

DOC will require four (4) long-term Project positions- Facilities Manager I to interface with each of the local government projects during design and construction phases and through 1st year operations.

(CONTINUED ON PAGE 2 of 2)

Prepared by: Joseph Reeves Phone 465-3315
Division: Administrative Services Date/Time 3/19/02 5:10 PM
Approved by: Margaret M. Pugh, Commissioner Date 3/19/02
Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB231 #1

ANALYSIS CONTINUATION

Each of the positions costs \$71.0 for the first year, second and subsequent years will include a 3.75% performance incentive (annual merit adjustment) built in per the provisions of current labor contracts. Personal services costs are to run through FY2006. Each of these new positions also require \$20.9 of support costs for FY2003 and \$17.5 for FY2004-2006 (Shown in Miscellaneous Line of Fiscal Note). Funds will be used for travel (on-site monitoring of construction, etc), contractual services (communication, printing/binding, etc), commodities (consumable office supplies, etc), and one-time first year equipment (pc's, printers, etc).

The Department of Corrections (DOC) also requires funds to enable the Agency to hire a professional contractor to negotiate and execute necessary lease contracts with the seven (7) local governments. Estimate approximately \$185 per hour X 860 hours = \$159,100 or \$159.1 (Shown in Contractual Line of FN). The Municipality of Anchorage spent about \$80.0 on their prison contract negotiations for their new 400-bed Anchorage Jail. Assume all necessary contracts would be completed in FY2003.

Assume that the First Year FY2003 will be for Architectural and Design, construction to be completed in FY2004 & FY2005, with new operations to commence FY2006.

Annual Lease Costs, by Facility (Shown in Contractual Services Line):

Fairbanks Correctional Center: 100 new beds X \$16,700 per bed = \$1,670,000
Matanuska-Susitna Correctional Center: 370 new beds X \$16,700 per bed = \$6,179,000
Lemon Creek Correctional Center: 64 new beds X \$16,700 per bed = \$1,068,800
Yukon-Kuskokwim Correctional Center: 96 new beds X \$16,700 per bed = \$1,603,200
Ketchikan Correctional Center: 100 new beds X \$16,700 per bed = \$1,670,000
Spring Creek Correctional Center: 150 new beds X \$16,700 = \$2,505,000
Wildwood Correctional Center: 256 new beds X \$16,700 = \$4,275,200

Additionally, security and life/safety staff and institutional staffing necessary to support these 1,136 new offender beds is based on 3.5 offenders per 1 staff. Thus, 325 new staff will be needed to support these additional offender beds statewide. Cost of these staff are included in the daily cost of care for each facility X the number of new beds at each facility, as follows (Cost of Care includes Institutional costs, Inmate Health & Programs, Admin. Support, and Indirect):

(Shown in Miscellaneous Line of Fiscal Note)

Fairbanks CC: 100 Beds X \$131.37 per day X 365 days = \$5,014,005
Matanuska-Susitna CC: 370 Beds X \$126.76 per day X 365 days = \$17,118,938
Lemon Creek CC: 64 Beds X \$139.25 per day X 365 days = \$3,252,880
Yukon-Kuskokwim CC: 96 Beds X \$162.18 per day X 365 days = \$5,682,787
Ketchikan CC: 100 Beds X \$185.74 per day X 365 days = \$6,779,510
Spring Creek CC: 150 Beds X \$111.53 per day X 365 days = \$6,106,268
Wildwood CC: 256 Beds X \$100.35 per day X 365 days = \$9,376,704

The \$72,302.2 annual costs of incarceration and lease payments can be offset by moving any remaining offenders housed at the Out of State contract facility (Central Arizona Detention Center) back to Alaska and housing them in the new beds created by this bill. Assuming that there will be at least 585 offenders left in Arizona, at \$65 per day X 365 days = \$13,879.1 of savings that can be applied to the new bed costs.

The Department of Corrections has twelve (12) state institutions statewide holding a maximum capacity of 2,702 offenders and an emergency capacity of 2,788 offenders. The institutions have a replacement value of over \$376,000,000. This bill expands the maximum bed capacity by approximately 40%. Assuming each bed cost \$155,000 per, the additional value to facilities for the new 1,136 beds is \$176,080,000 or an increase of approximately 46%. Joint ownership of existing state facilities will need to be discussed with Department of Administration and the Department of Transportation & Public Facilities who controls the structures, and with the Department of Natural Resources who owns the public land. There will be considerable issues to the concept of providing dual ownership of state-owned public facilities to local governments.

End.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 231
 (S) Publish Date: 3/22/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Correctional Facility Expansion BRU Revenue Operations
 Component Treasury Division
 Sponsor Senator Green
 Requester Community & Regional Affairs Component No. 121

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	15.0	5.0				
Contractual	75.0	25.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	90.0	30.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	15.0	5.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Bond Proceeds	75.0	25.0				
TOTAL	90.0	30.0	0.0	0.0	0.0	0.0

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: Deven Mitchell, State Debt Manager Phone 465-3750
 Division Treasury Division Date/Time 3/20/02 9:40 AM
 Approved by: Larry Perslly, Deputy Commissioner Date 3/20/2002
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 231 #2

ANALYSIS CONTINUATION

The legislation authorizes the Department of Corrections to enter into leases with seven municipalities for new or expanded correctional facilities. The municipalities would fund these projects by issuing lease-revenue bonds. These bonds would require the municipalities to pledge the state's lease payments, to the extent they are appropriated, and provide a trustee bank with a title interest in the new or improved facility for the benefit of the bond purchasers. Although this legislation does not explicitly refer to the Department of Revenue, the department should be involved in the transaction as the state's credit is used each time a state lease payment is directly pledged to a bond sale. The state has made a concerted effort over the past 20 years to centralize the issuance of debt involving the state's credit through the State Bond Committee. It is noteworthy that in the case of the Anchorage jail -- the last time the legislature authorized a lease-revenue transaction -- the State Bond Committee approved the Municipality of Anchorage's transaction documents and terms of sale. The national bond rating agencies review and rate these transactions, and a lack of direct state involvement would draw concern during the state's annual ratings review.

In providing the cost estimates in this fiscal note, the following assumptions were made:

1. The municipalities will issue bonds in early FY 2003.
2. The municipalities will have to issue these bonds separately.
3. As state-supported appropriation debt, the bonds will be rated A1, A+ and A+, resulting in interest rates comparable to other state-supported COPs
4. The bonds will have 15-year terms.
5. The municipalities will issue the maximum amount authorized under this legislation (\$176,080,000) for projects, plus the cost of issuing these bonds (while there is no limitation, these costs are estimated at \$2,900,000).

The legislation requires at least one bond sale from each of the seven municipalities listed. This is an inefficient way to raise funds for these projects, as each transaction will have fixed costs of issuance. Rating agency, bond counsel, financial advisory, printing and other fees will be incurred seven times rather than one. This results in the bonds costing an estimated \$1 million to \$2 million more than other financing alternatives.

Due to the State Bond Committee's role in these transactions, the state's bond counsel and financial adviser will have to participate in drafting the legal documents, structuring the transaction, and working with the rating agencies for each of the bond sales. The cost of this effort is estimated at \$120,000 over fiscal years 2003 and 2004.

One technical issue with the legislation is the Spring Creek facility expansion. The legislation would authorize the City of Seward to sell bonds for an expansion of the Spring Creek prison. However, Spring Creek currently has certificates of participation outstanding and a title interest in the facility has already been given to the purchasers of these bonds. Similar to a home, you cannot give another first lien pledge to this facility without either paying off the existing obligations or obtaining consent from the bondholders (a very difficult proposition). Under the existing indenture, the City of Seward could not assume ownership of the Spring Creek facility or part of the facility.

ALASKA STATE LEGISLATURE



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SENATOR LYDA GREEN SENATE DISTRICT N

DATE: March 20, 2002
TO: Senator Robin Taylor, Chair
Senate Judiciary Committee
FROM: Senator Lyda Green *LG*
RE: Hearing Request

Senate Bill 231, "An Act relating to correctional facilities." has been referred to the Judiciary Committee. This is my formal request that a hearing for SB 231 be held at the earliest opportunity.

A copy of the sponsor statement accompanies this request. If you have any questions please call Jerry at 3579.

Your cooperation is appreciated.

Request for Hearing

ALASKA STATE LEGISLATURE



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SENATOR LYDA GREEN SENATE DISTRICT N

Sponsor Statement SB 231

The need for additional prison beds in Alaska has been recognized by the Legislature for a number of years. Currently, there are hundreds of Alaskan prisoners being held in facilities outside of Alaska. The money that leaves Alaska to pay for the housing of these prisoners provides jobs and economic activity in Arizona, instead of Alaska.

Senate Bill 231 provides legislative authorization for the expansion of state prisons by local governments. Under the provisions of SB 231, local governments would finance the construction of new prison facilities and additional beds at facilities currently owned by the state. The State of Alaska would then enter into long-term leases and operate the facilities as part of the state correctional system. This financing mechanism allows the state to acquire facilities with no upfront capital costs. It benefits both the state and local economies with construction jobs and long-term jobs in the facilities. In many cases the existing facilities were designed with oversized core facilities that allow for expansion at a cost that is far less than that of building the same number of beds in a new facility.

The need for additional prison beds in Alaska is virtually uncontested. However, the location of facilities, the method of financing the construction and who will operate the new facilities all raise issues. In 1998, the Legislature authorized the construction of a privately constructed and operated prison with a minimum of 800 beds in Delta Junction. This prison was not built. In 2001, the Legislature passed HB 149, which provided for construction of a minimum of 800 private prison beds on the Kenai Peninsula. This prison also is not being built. By expanding currently existing facilities, very little energy must be spent on convincing a community that a prison should be constructed there. Expansion poses few of the obstacles that accompany new construction at new locations. Current correctional facilities are already integrated into and accepted by local communities.



CITY MANAGER

POST OFFICE BOX 1397, KODIAK, ALASKA 99615

TELEPHONE (907) 486-8640

FAX (907) 486-8600
April 2, 2002

Senator Robin Taylor
Chair, Senate Judiciary Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801 - 1182

RE: SB 231

Dear Senator Taylor:

The Council of the City of Kodiak passed the attached resolution on March 28, 2002, supporting the passage of Senate Bill 231. The Council is committed to working with the State of Alaska to replace, and expand, the State contract jail operated by the City of Kodiak. We believe that Senate Bill 231 provides a mechanism for us, and other communities, to do just that.

One particular item that the Council wanted me to elaborate on, in this cover letter, is our concern about the liability that operating the jail poses for the City of Kodiak. Contracting with the State to operate the jail is important to our community, our region and the State; however, our contract with the State places all the liability for operating the jail on the City of Kodiak. This is becoming an unacceptable burden, as the facility ages. The State contract jail operated by the City of Kodiak is over sixty (60) years old. It is the oldest operating correctional facility in the State of Alaska. It is becoming more and more difficult for the City to justify keeping this facility open as the age and condition of the facility increase our liability daily.

We have worked hard to operate the jail in a professional manner, but the constraints of the facility make it difficult to do more than we currently do. We urge you, your committee and the entire legislature to support Senate Bill 231.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda L. Freed".

Linda L. Freed, Manager
City of Kodiak

c.c. Senator Alan Austerman
Kodiak City Council and Mayor

INFORMATION
STATEMENT

**CITY OF KODIAK
RESOLUTION NUMBER 02- 07**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK

WHEREAS, the State contract jail, in the City of Kodiak, is over sixty (60) years old and is the oldest operational correctional facility in the State of Alaska; and

WHEREAS, the State contract jail, in the City of Kodiak, is owned and operated on behalf of the State of Alaska by the City of Kodiak, on a contractual basis; and

WHEREAS, the State contract jail, in the City of Kodiak, is part of a network of regional correctional facilities that when upgraded and expanded provide a solution to the correctional housing needs of the State of Alaska; and

WHEREAS, Senate Bill 231 addresses correctional housing needs in many Alaska communities, sharing the economic benefits of correctional facility improvements and expansion throughout the State; and

WHEREAS, the City of Kodiak is committed to the construction of a new, expanded jail to serve the correctional needs of the Kodiak region, and the State of Alaska; and

WHEREAS, Senate Bill 231 provides a mechanism for funding jail improvements and expansion by allowing municipalities, such as the City of Kodiak, to bond for construction of correctional facilities with the State paying the debt service on the bonds under a leasing arrangement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the City supports Senate Bill 231, and the financing mechanism identified in the bill for upgrading and expansion of community and regional correctional facilities in the State of Alaska, and urges passage of the Bill.

CITY OF KODIAK

Caryn L. Floyd
MAYOR

ATTEST:

[Signature]
DEPUTY CITY CLERK

Adopted: March 28, 2002



Cordova Outboard Inc
P O Box 960
Cordova, Alaska 99574-0321

March 26, 2002

The Honorable John Cowdery
Chairman of Transportation Committee
Alaska State Capital
Juneau, Alaska 99801

RE: CARQUEST-Alaska says NO to SB 348


Senator Cowdery,

It has come to our attention that a crash parts bill that could have a negative impact on the independent repair industry has been introduced, SB 348. Although CARQUEST sells hard parts and does some crash parts, we oppose any legislation that removes and restricts competition and increases car parts prices for our consumers.

The American way is to let the market place and consumers make their own decision. Alaska should not be in the business of legislating business to any industry.

We are looking forward to your reply. Thank you.

Sincerely,


Patsy Fisher, Secretary

cc: Senator Jerry Ward
Senator Robin Taylor
Senator Gary Wilken
Senator Kim Elton



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
Committee name

Committee on SB 231, dated 4-15-02

Failure to approve SB 231 will accomplish the following.

1. Continue to pour Millions into another state economy (Embarrassing).
2. Failing to address overcrowding in existing facilities thus continuing to jeopardize the safety of inmates, staff and communities in AK.
3. The ~~at~~ majority of your constituents have voted or voiced numerous times that they do not want a private run prison.

HB 498 is a threat to the state.

Name: *John Kaesten* *thank you*

Mailing: *Box 661
Palmer AK*

Phone #: *99645
746-6198*