

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10891 HOUSE JUDICIARY

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ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. Dan Ogg
Rep. Jim Hoim
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Leg. Legal

From: Vanessa Tondini, Committee Aide *mt*
House Judiciary Committee

Date: April 16, 2003

Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS0205\U, HCS CSSB 45, incorporating the following amendments:

Conceptual Amendment #1:

P.2, L.17-18

After "agency", delete "if the information...agency,"

Amendment #2:

P.2, L.1

Delete "knowingly"

Insert "intentionally"

I have also written the changes into the attached copy of the bill for clarification of the amendments. The bill passed out of committee today.

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is CONFIDENTIAL and/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

23-LS0205\U
Luckhaupt
4/8/03

HOUSE CS FOR CS FOR SENATE BILL NO. 45()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR GREEN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Legislative Budget and Audit Committee."**

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

3 *** Section 1.** AS 11.56 is amended by adding new sections to article 6 to read:

4 **Sec. 11.56.870. Hindering the Legislative Budget and Audit Committee in**
5 **the first degree.** (a) A person commits the crime of hindering the Legislative Budget
6 and Audit Committee in the first degree if the person violates AS 11.56.880(a) and the
7 person is a public servant.

8 (b) Each failure to comply with a request from the legislative auditor or the
9 legislative fiscal analyst is a separate violation of this section.

10 (c) Hindering the Legislative Budget and Audit Committee in the first degree
11 is a class A misdemeanor. A state employee who is convicted under this section
12 immediately forfeits the employee's office or position. In this subsection, "state
13 employee" has the meaning given in AS 39.25.990.

14 **Sec. 11.56.880. Hindering the Legislative Budget and Audit Committee in**
15 **the second degree.** (a) A person commits the crime of hindering the Legislative

1 Budget and Audit Committee in the second degree if the person ^{intentionally} ~~knowingly~~ (1) fails to
2 give, or (2) directs, orders, discourages, threatens, restrains, coerces, forces, or
3 prevents another person from giving, full cooperation to the legislative auditor or the
4 legislative fiscal analyst in assembling or furnishing requested information to the
5 committee or its staff.

6 (b) Each failure to comply with a request from the legislative auditor or the
7 legislative fiscal analyst is a separate violation of this section.

8 (c) Hindering the Legislative Budget and Audit Committee in the second
9 degree is a class B misdemeanor. A state employee who is convicted under this
10 section immediately forfeits the employee's office or position. In this subsection,
11 "state employee" has the meaning given in AS 39.25.990.

12 * Sec. 2. AS 24.20.201 is amended by adding a new subsection to read:

13 (c) When the legislative auditor or the legislative fiscal analyst requests
14 information from a state official or from an agency or department of the state, the
15 official or the agency or department may not refuse to provide that information by
16 claiming the information is privileged unless the official, or the commissioner of the
17 department or the head of an agency ^{delete} [if the information is requested from a department
18 or agency,] asserts the privilege and the basis for the privilege under oath. The
19 Legislative Budget and Audit Committee may consider the assertion of privilege, and,
20 if the committee disagrees, the committee may seek review of the claim of privilege in
21 the superior court.

22 * Sec. 3. AS 39.25.020 is amended by adding a new subsection to read:

23 (b) An appointing authority may not appoint a person to state service if the
24 person has been convicted of a crime under AS 11.56.870 or 11.56.880.

25 * Sec. 4. AS 39.90.140(3) is amended to read:

26 (3) "matter of public concern" means

27 (A) a violation of a state, federal, or municipal law, regulation,
28 or ordinance;

29 (B) a danger to public health or safety;

30 (C) gross mismanagement, a substantial waste of funds, or a
31 clear abuse of authority; [OR]

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(D) a matter accepted for investigation by the office of the ombudsman under AS 24.55.100 or 24.55.320; or

(E) interference or any failure to cooperate with an audit or other matter within the authority of the Legislative Budget and Audit Committee;

* Sec. 5. AS 24.20.201(a)(9) and 24.20.206(1) are repealed.

ALASKA STATE LEGISLATURE



Interim:
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Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

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

SENATOR LYDA GREEN SENATE DISTRICT G

MEMO

DATE: 04/02/2003

To: House Judiciary
Representative Lesil McGuire
Attn: Vanessa Tondini

From: Senator Lyda Green\
Jacqueline F. Tupou

RE: Scheduling of SB45 "LB&A Crimes"
And SJR10 "Pledge of Allegiance"

As per our telephone conversation, I would appreciate Senate Bill 45 and Senate Joint Resolution 10 to be scheduled in Judiciary on April 10th, 2003 during your regularly scheduled meeting at 1:30 pm. I have attached the bills, sponsor statements and fiscal notes. Thank you for your time and attention to this matter.

If you have any questions or need any other information please call me at x3712.

ALASKA STATE LEGISLATURE



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SENATOR LYDA GREEN SENATE DISTRICT G

SPONSOR STATEMENT FOR SENATE BILL 45

“An act relating to the Legislative Budget and Audit Committee.”

AS 24.20.201(a)(3) states that the Legislative Budget and Audit Committee has the power to “require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information.” Unfortunately, this well-intentioned statute is unenforceable because it lacks any penalties for those who are uncooperative or who undermine the work of this committee. Senate Bill 45 is designed to remedy this by providing prosecutors with the necessary tools to deter and punish those who hinder the investigative work of the legislative budget and audit committee.

Senate Bill 45 also clarifies the process by which privilege is claimed and the process by which it is determined.

When the legislature created the Legislative Budget and Audit committee, it envisioned this committee would have full access to all information necessary to carry out their work. Senate Bill 45 helps to ensure that this vision can occur.

I urge your support and swift passage of this important legislation.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 45
(S) Publish Date: 3/24/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to the Legislative BRU Centralized Administrative Services
Budget & Audit Committee Component Administrative Services
Sponsor Senator Green
Requester (H) FIN Component No. 46

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact on the Department.

Prepared by: Dan Spencer, Director
Division: Division of Administrative Services
Approved by: Mike Miller, Commissioner
Agency: Department of Administration

Phone 465-5655
Date/Time 2/20/03 11:45 AM
Date 2/20/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 45
(S) Publish Date: 3/24/03

Revision Date/Time (correction): 2/25/03 2:18 PM Dept. Affected: Law
Title "An Act relating to the Legislative Budget and Audit Committee." BRU Criminal Division
Sponsor Senator Green Component All
Requester Senate Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill creates new crimes: Hindering the Legislative Budget and Audit Committee in the first and second degrees. Hindering the LB&A Committee in the first degree is a class B felony. Hindering the LB&A Committee in the second degree is a class C felony.

The Department of Law does not anticipate many new cases from passage of this legislation, and does not expect a measurable fiscal impact.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time: 2/25/03 2:18 PM
Approved by: Kathryn Daughhetee for Gregg D. Renkes, Attorney General Date: 2/25/2003
Agency: Department of Law

SB

49

STATE OF ALASKA

FRANK H. MURKOWSKI,
GOVERNOR

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-2075

April 28, 2003

Representative Lesil McGuire
House Judiciary Committee
State Capitol, Room 118
Juneau, AK 99801-1182

Re: CSSB 49(STA) - 2003 Revisor's Bill

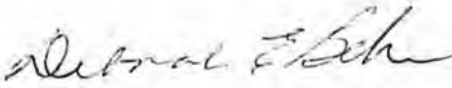
Dear Representative McGuire:

The Department of Law has had an opportunity to review CSSB 49(STA), 2003 revisor's bill. We find no legal problems.

The bill makes technical improvements to the Alaska statutes. We appreciate the efforts of the revisor of statutes on this important legislation. We recommend the scheduling of committee consideration of this bill.

Sincerely,

GREGG D. RENKES
ATTORNEY GENERAL

By: 
Deborah E. Behr
Assistant Attorney General

DEB:pvp

cc: Pam Finley, Revisor of Statutes, Legislative Affairs Agency
Dave Marquez, Attorney General's Office
Mike Tibbles, Legislative Director, Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 49(STA)
 (S) Publish Date: 2/24/03

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title: _____ BRU: _____
 Component: _____
 Sponsor: _____
 Requester: Senate State Affairs Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: SENATE STATE AFFAIRS COMMITTEE Phone 465-3873
 Division: _____ Date/Time 2/21/03 4:33 PM
 Approved by: /s/Senator Taylor, Chair Date 2/21/2003
 Agency: _____

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

April 24, 2003

SUBJECT: CSSB 49(STA) (2003 Revisor's Bill)

TO: Representative Lesil McGuire
Chair of the House State Affairs Committee

FROM: Pam Finley *PF*
Revisor of Statutes

Enclosed is a copy of CSSB 49(STA) (the 2003 revisor's bill) and a sectional for CSSB 49(STA). I would appreciate your scheduling a hearing on CSSB 49(STA) at your earliest convenience. If you have any questions about the bill or the proposed amendment, please give me a call.

PF:mdr
03-088.mdr

Enclosures

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 24, 2003

SUBJECT: CSSB 49(STA)
TO: Representative Lesil McGuire
Chair of the House Judiciary Committee
FROM: Pam Finley
Revisor of Statutes

The following is a sectional analysis of CSSB 49(STA), the 2003 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

...shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 3, 5, 9, 10, 11, 12, 28, 31, 32, 38-45, 60, 63, and 68-74 repeal or amend provisions that have become obsolete through other legislative action or the passage of time.

Sections that correct errors or oversights: Sections 1, 2, 4, 6-8, 13, 14, 17-21, 23-25, 27, 29, 30, 34-37, 46-58, 61, 62, 64, 65, and 74 correct errors or oversights.

Sections that improve the form or substance of the law: Sections 15, 16, 22, 26, 33, 59, 66, 67, and 74 propose amendments to improve the form or substance of the statutory law of Alaska.

SECTIONAL ANALYSIS

Section 1. This section corrects a grammatical error in AS 02.15.230(a).

Section 2. Chapter 60, SLA 2002 changed "driving while intoxicated" to "driving while under the influence of an alcoholic beverage, inhalant, or controlled substance" in AS 28.35.030 and other statutes. This bill section makes the same change in AS 04.11.494(e) and also makes several grammatical corrections.

Representative Lesil McGuire
Chair of House Judiciary Committee
April 24, 2003
Page 2

Section 3. This section changes the statutory citation for the federal Fair Credit Reporting Act in AS 06.01.028(a)(4). In 2001, 15 U.S.C. 1681v was added to the Fair Credit Reporting Act. (15 U.S.C. 1681v requires a consumer reporting agency to give information about a consumer to government agencies if the agency certifies that the information is necessary to an investigation of international terrorism. 15 U.S.C. 1681v also prohibits the agency from disclosing that the government sought or obtained access to the information.)

Section 4. This section amends AS 06.26.190(a) to substitute "international trust company" for "international national trust company." The latter does not exist as a defined term in AS 06.26. This corrects an error in ch. 77, SLA 2002 and was requested by the Department of Law.

Section 5. This section amends the citation for the federal Fair Credit Reporting Act in AS 06.26.610(a)(5). See explanation for bill section 3.

Sections 6 - 8. These sections amend AS 08.13.080(b) and (c) and AS 08.13.100(a) to reflect the fact that licenses to practice are actually issued by the Department of Community and Economic Development after the relevant board, in this case the Board of Barbers and Hairdressers, authorizes the issuance of the license. See AS 08.01.050(a)(9) and AS 08.13.030(b)(1). These bill sections correct a drafting error in ch. 57, SLA 1999.

Sections 9 and 10. These bill sections amend AS 08.36.110(1)(F) and 08.36.234(1)(J) to reflect the correct current name of the American Association of Dental Examiners Clearinghouse for Board Actions.

Sections 11 and 12. These sections amend AS 09.30.310 and AS 09.50.390 to require reference to a serial number as an alternative to a reference to book and page. See explanation for bill sections 38-44.

Section 13. Under § 2, ch. 43, SLA 2000, AS 44.33.895 (Alaska regional economic assistance program) is to be repealed July 1, 2003. Unfortunately, ch. 43, SLA 2000 did not remove references to AS 44.33.895 in some other statutes. This bill section amends AS 09.65.170(c)(2) to substitute the current definition of "regional development organization" in AS 44.33.895 for a cross-reference to AS 44.33.895. (AS 09.65.170 concerns limitations on liability for officers and directors.) I have substituted the definition, rather than removed the reference to regional development organizations, because it appears that the organizations may continue to exist even after AS 44.33.895 is repealed. This bill section is made effective on the effective date of the repeal of AS 44.33.895.

Section 14. This section amends AS 10.06.580(a)(2) to correspond to AS 10.06.580(a)(1). AS 10.06.580(a)(2) as enacted by ch. 166, SLA 1988 correctly

Representative Lesil McGuire
Chair of House Judiciary Committee
April 24, 2003
Page 3

referred to a twenty-day period, but for some reason the published statutes in 1988 changed the reference to a 10-day period. Although this change could be made editorially since it just returns the published language to the enacted language, given the length of time that the error has appeared in the published statutes and the ramifications of the error, I would rather have this change made in the revisor's bill

Section 15. This section amends AS 10.06.811(a), which sets the year in which a corporation's biennial report must be filed. Current law addresses the filing date for a foreign corporation receiving a certificate of authority during an even-numbered year, but not for a foreign corporation receiving a certificate of authority during an odd-numbered year. (The applicable definition of "corporation" does not include foreign corporations. AS 10.06.990.) The amendment in bill section 15 requires foreign corporations that receive certificates of authority during an odd-numbered year to file their biennial reports each odd-numbered year.

Section 16. This section amends AS 10.06.833 to substitute "foreign corporation that has been issued a certificate of authority under AS 10.06.705" for "registered foreign corporation". Technically, foreign corporations do not "register"; instead they are issued certificates of authority.

Section 17. This bill section amends AS 10.20.460(1) to substitute "action or suit or an administrative or arbitration proceeding" for "action or suit of an administrative or arbitration proceeding." Since the current language does not make sense, "of" was probably a typographical error.

Section 18. Section 15, ch. 93, SLA 1959 enacted a provision which was split into two sections--- AS 10.25.210 and 10.25.220--- when Alaska's session laws were codified in 1963. As enacted, the section required an affidavit that the provisions of "this section" were complied with. Because the provisions of sec. 15, ch. 93, SLA 1959 are now found in both AS 10.25.210 and 10.25.220, the affidavit requirement should also refer to both of those sections. To that end, section 18 amends AS 10.25.220 to add a reference to AS 10.25.210.

Section 19. Cemetery associations have trustees. AS 10.30.010. Nonprofit cemetery corporations, like other corporations, have a board of directors. AS 10.30.055. However, AS 10.30.060 refers to the "trustees" of a cemetery corporation and neglects to refer to the trustees of an association. This bill section corrects that error.

Section 20. This section substitutes "recording district" for "recording precinct" in AS 10.40.110. Alaska has recording districts, but no recording precincts. AS 40.17.010.

Section 21. Professional corporations have "shareholders" not "members". See AS 10.45.010 and 10.45.050. However, AS 10.45.133 refers to "members". This bill section changes that reference to "shareholders".

Representative Lesil McGuire
Chair of House Judiciary Committee
April 24, 2003
Page 4

Section 22. This bill section rearranges the definition of "sexual penetration" in the criminal code to conform to the style of the Alaska Statutes.

Section 23. Chapter 113, SLA 2000 repealed AS 45.09 and enacted AS 45.29, but failed to address the reference to AS 45.09 in AS 13.16.580. This bill section corrects that drafting error.

Section 24. Chapter 94, SLA 2001 enacted AS 14.03.075(g)(1), which referred to the definition of "children with disabilities" in AS 14.30.350. However, sec. 29, ch. 67, SLA 2001 changed the definition in AS 14.30.350 from "children with disabilities" to "child with a disability." This bill section amends AS 14.03.075(g)(1) to conform to the change made in sec. 29, ch. 67, SLA 2001. Because AS 14.03.075 does not take effect until February 1, 2004---secs. 7 and 11, ch. 94, SLA 2001--- the amendment to AS 14.03.075(g)(1) made by this bill section is also tied to that effective date.

Section 25. This bill section substitutes "regional educational attendance area" for "rural educational attendance area" in AS 14.11.008(a). The proper term is "regional educational attendance area." AS 14.08.031. This corrects an error in ch. 3, SSSLA 2002.

Section 26. Section 39, ch. 83, SLA 1998 repealed AS 14.17.160, while sec. 6, ch. 77, SLA 1998 added what is now AS 14.11.100(n), which contained a reference to AS 14.17.160. This bill section addresses that situation by inserting "former" before "AS 14.17.160" in AS 14.11.100(n).

Section 27. In 1994, the legislature amended AS 16.10.320(d) in two separate acts. Chapter 62, SLA 1994 expanded the purposes for which commercial fishing loans could be made under AS 16.10.310(a)(1). Specifically, the Department of Community and Economic Development was authorized to make loans under AS 16.10.310(a)(1)(A) to improve quality of Alaska seafood products and to pay outstanding federal income tax indebtedness. Chapter 62 also amended AS 16.10.310(d) to place a \$300,000 cap on the total balances outstanding on all loans, including debt refinancing, that could be made to a borrower under AS 16.10.310(a). At the time that ch. 62 took effect (May 26, 1994), commercial fishing loans could be made only under AS 16.10.310(a)(1)(A) and (B), so the \$300,000 cap applied only to AS 16.10.310(a)(1)(A) and (B).

Section 2, ch. 73, SLA 1994 amended AS 16.10.310(a)(1) by adding a new subparagraph (C) to authorize the Department of Community and Economic Development to make loans for the purchase of quota shares. Section 3, ch. 73, SLA 1994 amended AS 16.10.320(d) by adding a new sentence: "The total balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(C) may not exceed \$300,000." Chapter 73, SLA 1994 took effect June 7, 1994.

Representative Lesil McGuire
Chair of House Judiciary Committee
April 24, 2003
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When the 1994 amendments to AS 16.10.320(d) were codified, both amendments were incorporated verbatim without taking into account the fact that the amendment made by ch. 62 only placed a limit on the amount of outstanding indebtedness that a borrower could have on loans made under AS 16.10.310(a)(1)(A) and (B) because AS 16.10.310(a)(1)(C) did not exist at the time that ch. 62 took effect. By codifying the two amendments into AS 16.10.320(d) verbatim, the apparent interpretation is that the total amount of outstanding indebtedness that a borrower could hold is \$300,000, regardless of whether the indebtedness was incurred under AS 16.10.310(a)(1)(A), (B), or (C). However, if the amendments made to AS 16.10.320(d) by ch. 62 and ch. 73 are considered independently, then the limit on indebtedness for loans under AS 16.10.310(a)(1)(A) and (B) (including debt refinancing) would be \$300,000 and a separate limit for indebtedness for loans under AS 16.10.310(a)(1)(C) would be \$300,000.

The Department of Community and Economic Development has, since 1994, construed and applied AS 16.10.320(d) such that there is a \$300,000 cap on indebtedness incurred under AS 16.10.310(a)(1)(A) and (B) and another \$300,000 cap on indebtedness incurred under AS 16.10.310(a)(1)(C). This issue has arisen at this time as the result of an audit of the commercial fishing loan program being conducted by the Division of Legislative Audit. The auditor's position appears to be that this interpretation is not consistent with the law as set out in the Alaska Statutes. There is no litigation known to the Department of Community and Economic Development or the Department of Law that involves the construction of AS 16.10.320(d). The Department of Community and Economic Development is anxious to resolve the matter as to the appropriate construction of AS 16.10.320(d) in a timely manner so as not to be at odds with the Legislative Auditor over the proper interpretation of this subsection. While the Legislative Auditor is quite right in applying the statute as it is set out in the Alaska Statutes, I agree with the Department of Community and Economic Development that the legislature probably intended chs. 62 and 73, SLA 1994 to operate independently. The fact that sec. 4, ch. 73, SLA 1994 amended the last sentence of AS 16.10.320(i) to substitute "if the total of the balance outstanding on loans received by the borrower under AS 16.10.310(a)(1)(A) and (B) does not exceed \$300,000" for "if the total of the balance outstanding on loans received by the borrower under AS 16.10.310(a) does not exceed \$300,000" supports the proposition that the legislature intended the \$300,000 limit to exclude loans under AS 16.10.310(a)(1)(C).

This bill section amends AS 16.10.320(d) to make it clear that the two \$300,000 caps operate separately. If the legislature disagrees with my interpretation, this section should be removed from the revisor's bill.

Section 28. The descriptions of the Egegik Critical Habitat Area are described in statute as "protracted", i.e., drawn without benefit of a survey monumenting the lines on the ground. However, according to the Department of Fish and Game, a U.S. Rectangular Land Survey of the area was approved July 15, 1993, and therefore the word "protracted"

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is no longer accurate. This bill section deletes "protracted" from the description in AS 16.20.565.

Section 29. Section 3, ch 55, SLA 1999 amended AS 18.07.031(a)(3) so that a certificate of need was no longer required when a category of health services provided by a health care facility was to be eliminated. Accordingly, the reference to a deletion of a category of health services in the definition in AS 18.07.111(3) of "commencement of activities" should have been removed in ch. 55, SLA 1999 but was not. This bill section makes that change.

Section 30. This bill section substitutes "housing assistance loan fund" for "housing assistance revolving fund" in AS 18.56.590. There is no "housing assistance revolving fund" although the housing assistance loan fund is a revolving fund. AS 18.56.420.

Sections 31 and 32. These bill sections delete references to Rule 45 of the Alaska Rules of Appellate Procedure. Rule 45 was repealed decades ago. Currently Rules 601 - 612 of the Alaska Rules of Appellate Procedure govern appeals to the superior court.

Section 33. This bill section substitutes "fire services personnel" for "men" in AS 18.70.160 in order to conform to the policy of avoiding words referring to only one sex. See AS 01.05.031(c). The term "fire services personnel" is used in AS 18.70.320.

Section 34. This bill section substitutes "Emergency Management Assistance Compact" for "Interstate Civil Defense and Disaster Compact" in AS 26.23.070(c). In ch. 55, SLA 2002, the Emergency Management Assistance Compact was adopted and the Interstate Civil Defense and Disaster Compact was repealed.

Section 35. Literally, the first sentence of AS 28.05.095(b) requires the driver of a motor vehicle to provide a child. It is more likely that the legislature intended to require the driver to provide a safety device (either a child safety device or a safety belt, as appropriate), as well as to secure each child in the device. This bill section makes that intent clear.

Section 36. This bill section corrects an error in ch. 56, SLA 2002. AS 28.15.231(b) prohibits the assessment of points for parking violations "[e]xcept as otherwise provided in AS 28.35.235(b)." However, in the final version of ch. 56, SLA 2002, AS 28.35.235(b) did not require the assessment of points. Accordingly, this bill section deletes the "except" clause in AS 28.15.231(b).

Section 37. AS 28.20.400(a) states how a person may qualify as a self-insurer for vehicles. It provides rules for a person who has more than 25 vehicles and for a person who has less than 25 vehicles, but makes no provisions for the person who has exactly 25 vehicles. The law originally allowed self-insurance only for persons having more than 25 vehicles. Section 27, ch. 108, SLA 1989 added the current second sentence. Since it

appears that the intent of ch. 108, SLA 1989 was not to change the rule for persons having more than 25 vehicles, but rather to add provisions for others, the second sentence is amended to include a person who has exactly 25 vehicles.

Sections 38 - 44. AS 40.17.030(a)(6) --- which was rewritten in 1996 --- requires certain documents to refer to either the "book and page" or the "serial number" of a previously recorded document. These bill sections add a reference to the "serial number" of a document in statutes that currently refer only to the "book and page" on which a document was recorded. These statutes were last amended before 1996 and so do not currently reflect the policy in AS 40.17.030(a)(6) of allowing a serial number as an alternative to a book and page reference. The Department of Law requested these amendments because the recorder's office is now using serial numbers instead of book and page references when it records documents.

Section 45. This bill section removes an obsolete date from AS 34.45.290(d).

Sections 46 - 52. Chapter 92, SLA 1982 was, as its title indicates, an act "transferring the administration of school or education-related facility construction from the Department of Transportation and Public Facilities to the Department of Education." Unfortunately, ch. 92 failed to delete references to schools and regional educational attendance areas in several sections of AS 35.10 and AS 35.15, which relate to the Department of Transportation and Public Facilities. These bill sections delete those references. (Note that the definition of "public work" in AS 35.95.100 includes only buildings constructed or maintained by the Department of Transportation and Public Facilities, thereby excluding schools.)

Section 53. This bill section amends AS 36.30.850(b)(30) to include the current definition of "regional development organization" in AS 44.33.895. It will become effective upon the repeal of AS 44.33.895. See the explanation for bill section 13 above.

Sections 54 - 58. These bill sections make technical corrections to sections enacted by initiative in 2002. In AS 41.41.070(d), "authority" is substituted for "corporation" because the entity created is an "authority". The other amendments are self-explanatory.

Section 59. This bill section substitutes "joint venture" for "joint adventure" in AS 43.70.110(4). "Joint venture" is the more contemporary term.

Section 60. This bill section deletes a reference in AS 44.23.020(b)(9) to the division of consumer protection in the Department of Law. The division of consumer protection was not created in statute and has not existed in fact for many years.

Section 61. Chapter 58, SLA 1999 moved the adult basic education program from the Department of Education to the Department of Labor and Workforce Development. Because the Department of Education had authority to adopt regulations for this program

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under AS 14.07.020(12) and 14.07.060, the Department of Labor and Workforce Development should have received authority to adopt regulations for the program when it received authority over the program. It did not, and this bill section corrects that omission in ch. 58, SLA 1999. (The Department of Education and Early Development has requested that this bill not amend AS 14.07.020(12) because of that statute's usefulness in the administration of certain federal programs for the disabled.)

Section 62. This bill section amends AS 45.01.206(b) to substitute "AS 45.29.203" for "AS 45.09.203." AS 45.29 was enacted, and AS 45.09 repealed, in ch. 113, SLA 2000. AS 45.29.203 is the equivalent of AS 45.09.203.

Section 63. This bill section deletes "consumer protection section" from AS 45.45.210 since that section no longer exists. Since this amendment involves forms, the effective date is delayed until January 1, 2004.

Sections 64 and 65. These bill sections amend AS 45.50.475(d) and (e) to substitute "this section" for "AS 45.50.475" to conform to the style of the Alaska Statutes.

Section 66. This bill section gives a short title ---the Alaska Unfair Trade Practices and Consumer Protection Act--- to AS 45.50.471 - 45.50.561. This body of law is referred to often enough that a short title would be useful. (In Matanuska Maid v. State, 620 P.2d 182 (Alaska 1980), the Alaska Supreme Court used this particular short title for this article, and it has long been the article heading.)

Section 67. This bill section gives a short title ---the Alaska Restraint of Trade Act--- to AS 45.50.562 - 45.50.598. This body of law is also referred to often enough that a short title would be useful. (Again, in Matanuska Maid v. State, 620 P.2d 182 (Alaska 1980), the Alaska Supreme Court used this particular short title for this article, and it has long been the article heading.)

Section 68. This bill section amends AS 47.05.012(9) to set out the current name of the compendium relating to animal rabies.

Sections 69 - 71. The Citizens' Foster Care Review Board, and the local review panels, were not extended under AS 44.66.010 and therefore expired in 2000. Accordingly the statutes establishing and governing the Board are repealed in bill section 74. Bill section 69 deletes a reference to the Board and the local review panels in AS 47.10.093(b)(1). Bill sections 70 and 71 amend AS 47.12.315(d) and AS 47.14.100(i) to delete a reference to AS 47.14.299, but add the definition of "out-of-home care provider" that currently exists in AS 47.14.299.

Sections 72 and 73. These bill sections substitute "federal Temporary Assistance for Needy Families program" for "federal program designated as the successor to the aid to families with dependent children program." in AS 47.27.005(4) and 47.27.020(b). At the

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time these statutory provisions were drafted, it was known that the federal government was going to replace AFDC, but the title of the new program was not known. These bill sections add the correct title of the TANF program. The same change was not made to AS 47.07.020(b), 47.07.035(26), and AS 47.27.015(b) because the Department of Law intends to make more substantive amendments to those sections.

Section 74. This bill section repeals several statutes. The text of these statutes is attached.

AS 11.46.480(b)(5) defines "tamper", but an identical definition of "tamper" appears in AS 11.46.495(5). Accordingly, AS 11.46.480(b)(5) is repealed.

AS 44.66.010(a)(17)

AS 47.10.080(m) and (n)

AS 47.10.142(g)

AS 47.12.120(h)

AS 47.14.200 - 47.14.299 are all repealed because of the expiration of the Citizens' Foster Care Review Board.

Section 75. This bill section ties the effective date of bill sections 13 and 53 to the repeal of AS 44.33.895.

Section 76. This bill section ties the effective date of bill section 24 to the effective date of sec. 3, ch. 58, SLA 1997, as amended by sec. 7, ch. 94, SLA 2001.

Section 77. This bill section gives bill section 63 a January 1, 2004, effective date because bill section 63 involves the change of a form.

Section 78. This bill section gives the bill sections not covered by bill sections 75-77 an immediate effective date.

TEXT OF STATUTES REPEALED

AS 11.46.480(b)(5):

(5) "tamper" means to interfere with something improperly, meddle with it, or make unwarranted alterations to its existing condition.

AS 44.66.010(a)(17):

(17) Citizens' Foster Care Review Board under AS 47.14.200 - June 30, 2000;

AS 47.10.080(m) and (n)

(m) Within 60 days after the date a child is removed from the child's home by the department, the department shall notify the Citizens Foster Care Review Board established in AS 47.14.200.

(n) Within 60 days after a court orders a child committed to the department under (c) of this section and at a review under (f) or (l) of this section, the department shall inform the parties about the local review panel established under AS 47.14.220.

AS 47.10.142(g).

(g) Within 60 days after a court orders a child committed to the department under this section, the department shall inform the parties about the local review panel established under AS 47.14.220.

AS 47.12.120(h).

(h) Within 60 days after the date a minor is removed from the minor's home by the department, the department shall notify the Citizens' Foster Care Review Board established in AS 47.14.200.

AS 47.14.200 - 47.14.299.

Sec. 47.14.200. Citizens' Foster Care Review Board.

(a) There is created in the Department of Administration the Citizens' Foster Care Review Board. The board consists of nine public members appointed by the governor from among persons who have training, experience, special knowledge, or a demonstrated interest in the welfare of children. An out-of-home care provider or a person employed by the court system, the Department of Health and Social Services, the office of public advocacy, the Public Defender Agency, or the Department of Law may not serve as a public member of the board. The governor shall appoint at least one public member from each judicial district and shall appoint persons who are reasonably representative of the various social, economic, racial, ethnic, and cultural groups of the judicial district from which the members are appointed. The governor may not appoint a person who has committed a felony or violated AS 11.51.130 or a law with substantially similar elements. The board also includes, as nonvoting members, the following state officials or their designees:

- (1) the commissioner of health and social services;
- (2) the director of the office of public advocacy.

(b) Public members of the board serve at the pleasure of the governor for staggered terms of three years or until their successors are appointed. These members may not serve more than two consecutive full terms, except that they may be reappointed to one or two additional consecutive full terms if they have been off the board for at least three years immediately preceding the reappointment.

(c) The voting members of the board shall elect from among the voting members a chair who shall serve for one year. Five voting members of the board constitute a quorum for the transaction of business. The board may not take official action without the affirmative vote of at least five of its voting members.

(d) Members of the board are entitled to reimbursement for actual expenses necessary to perform their duties as board members. The reimbursement may not exceed the amount of per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

(e) The board shall meet at least once annually. Meetings shall take place telephonically whenever practical, and the board may meet by video conference.

(f) The board may employ a program coordinator who shall serve at the pleasure of the board. The program coordinator shall employ staff as necessary to carry out the program coordinator's duties under board directives and to provide technical assistance to local review panels. The board may delegate duties to the program coordinator as necessary to assist the board in administering AS 47.14.200 - 47.14.299.

Sec. 47.14.210. Powers and duties of the board.

(a) The board shall

(1) hold regular and special meetings the board considers necessary;

(2) adopt regulations necessary to carry out its duties and to govern the performance of the duties of the local review panels established under AS 47.14.220; the regulations must include provisions that

(A) ensure that reviews conducted by local review panels meet the permanency planning review requirements for state compliance with 42 U.S.C. 671 - 675;

(B) set priorities to be followed by local review panels so that the cases that have the highest priority for review include cases that involve children who are likely to be in out-of-home placement for longer than 90 days, who have been in more than one out-of-home placement, whose siblings have been in more than one out-of-home placement, or whose parents' parental rights are likely to be terminated;

(C) establish procedures for expedited review of cases described in (B) of this paragraph; and

(D) establish the minimum number of local review panel members that must review a case and provide for the appointment of substitute local review panel members to participate in the review of a case when a member cannot be available due to an emergency;

(3) ensure that the public members of the board and of the local review panels receive the level of training necessary to effectively carry out their duties, document in the board's records that the public members

of local review panels have completed the training, and ensure that a public member of a local review panel does not review a case until training has been received;

(4) coordinate and review the activities of the local review panels;

(5) apply for private and federal grants and solicit contributions, gifts, and bequests to administer and implement AS 47.14.200 - 47.14.299;

(6) award grants or contracts from available money to local governmental or public or private nonprofit agencies to provide assistance to the state board and local review panels, to support their activities, and to carry out projects or studies related to improving the system for permanency needs of children in state foster care;

(7) review and make recommendations to the department about the department's regulations that govern out-of-home placement of children;

(8) use board staff to evaluate applicants for public members of local review panels and to provide training to local review panel members;

(9) prepare a report annually, by the 10th day of each regular session of the legislature, concerning the activities of the state board and the local review panels during the previous fiscal year; the report must include the number of cases reviewed by each local review panel, a description of the characteristics of the children whose cases were reviewed by the local review panels, the number of children reunited with their families, the number of children placed in other permanent homes, systemic barriers to achieving permanency for children, and recommendations and justifications for improvement in services and programs provided to children, including recommendations relating to state agencies and to the panel review system; the report may contain other information on the experience of the local review panels; the board shall notify the governor and the legislature that the report is available.

(b) The board may by regulation require the department to provide to the board or to a local review panel aggregate data about the permanency planning system and information about particular cases that is not required under AS 47.14.240. The department shall provide the data and information requested under these regulations.

Sec. 47.14.220. Appointment of local review panels.

(a) Except as provided in regulations adopted under AS 47.14.210(a)(2)(D) relating to substitutes, the board shall appoint for each judicial district at least five persons available to serve as public members on local review panels who are residents of the judicial district. Public members shall serve staggered terms of three years or until their successors are appointed. Public members may not serve more than two consecutive full terms, except that, after being off all panels for at least

three years, a member may be reappointed to one or two consecutive full terms.

(b) The board shall appoint as public members persons who have training, experience, special knowledge, or a demonstrated interest in the welfare of children. An out-of-home care provider or a person employed by the court system, the department, the office of public advocacy, the Public Defender Agency, or the Department of Law may not serve as a public member of a local review panel. The board may not appoint a person who has committed a felony or violated AS 11.51.130 or a law with substantially similar elements.

(c) The public members of a local review panel must be reasonably representative of the various social, economic, racial, ethnic, and cultural groups of the district from which the members are appointed.

(d) If the board determines that additional public members are necessary in a judicial district because of excessively large or complex caseloads for review or because of the demographics of cases, the board may appoint additional public members. Appointments of public members under this subsection are governed by (a) - (c) of this section. Public members serve on the panel at the pleasure of the board.

(e) When a person is appointed to serve as a public member on a local review panel, the person shall swear or affirm in writing to keep confidential all information that comes before the local review panel except for nonidentifying case information included in a report to the state board, information for reports required under AS 47.17, or as required by court order for good cause shown. A public member of a local review panel may also share confidential information, on a need-to-know basis, with other members of the local review panel, the board, and the staff who serve the board or local review panel.

Sec. 47.14.230. Meetings; expenses.

(a) A local review panel shall conduct its meetings in the judicial district in which its public members reside.

(b) [Repealed, Sec. 26 ch. 94 SLA 1997].

(c) [Repealed, Sec. 26 ch. 94 SLA 1997].

(d) A public member of a local review panel is not eligible for travel expenses, per diem, or other expenses for service on the local review panel unless the state board requires the public member to travel to attend a meeting. If the state board requires a public member of a local review panel to travel to attend a meeting, the public member is entitled to reimbursement for actual expenses incurred by the member in attending the meeting, except that the reimbursement may not exceed the amount of per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

Sec. 47.14.240. Duties of local review panel.

(a) A local review panel shall review the case plan of each child in the custody of the department who is in a placement other than the child's own home under AS 47.10.080(c)(1) or (3), 47.10.142, or AS 47.14.100(c) if the case is under the jurisdiction of a court in the judicial district served by the local review panel. A local review panel may request a local review panel in another judicial district to conduct a review and make a report if that local review panel is more convenient for the child and other persons involved.

(b) The local review panel shall review a case as required under 42 U.S.C. 671 - 675 (P.L. 96-272) within 90 days after the day the child is initially removed from the child's home for a case that is determined under the board's regulations to be of highest priority and within 180 days after the child is initially removed for other cases and every six months after the date of the first court hearing on the child's case. A court review may be substituted for a review required under this subsection if the court review meets the requirements of this subsection.

(c) At least 30 days before the local review panel begins a review, or as soon as practicable, the local review panel or the state board shall provide written notice to the following persons that a review will be conducted and that each person notified may participate in the review:

- (1) the appropriate employees of the department;
- (2) the child or the child's legal representative;
- (3) the child's parents;
- (4) the child's guardian;
- (5) the child's guardian ad litem;
- (6) the child's out-of-home care provider; and
- (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act),
 - (A) the child's Indian custodian; and
 - (B) the designated representative of the child's Indian tribe if the tribe has intervened in the court case.

(d) In reviewing a case, the local review panel shall consider the case plan and any progress report of the department or the child's guardian ad litem, court records, and other relevant information about the child and the child's family. The local review panel shall provide to the following persons an opportunity to be interviewed by the local review panel in person or by telephone or to provide written material to the local review panel:

- (1) the child whose case is being reviewed if the child is 10 years of age or older;
- (2) the parents, custodians, or other relatives of the child;
- (3) the child's out-of-home care provider;
- (4) the child's guardian;

(5) the child's guardian ad litem;
(6) the case worker or social worker assigned to the case;
(7) the child's health care providers;
(8) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act),

(A) the child's Indian custodian; and

(B) the designated representative of the child's Indian tribe if the tribe has intervened in the court case; and

(9) other persons with a close personal knowledge of the case.

(e) At the discretion of the child's guardian ad litem, if the child whose case is being reviewed is under 10 years of age, the child may be present at interviews conducted under (d) of this section and during review by the local review panel or may be interviewed. At the child's request, a child who is 10 years of age or older shall be allowed to be present at interviews or a review of the local review panel that concerns the child's case unless the panel determines that for good cause the child's presence would be contrary to the best interests of the child or there is other good cause for denying the child's request.

(f) During a review under (a) of this section, a local review panel shall

(1) determine whether the child has a case plan designed to achieve placement in the least restrictive, most family-like setting available in close proximity to the home of the child's parents that is consistent with the best interests and special needs and circumstances of the child;

(2) evaluate the continuing necessity and appropriateness of the child's placement, the extent of the compliance with the child's case plan, and the extent of progress that has been made toward mitigating the causes that necessitated placement away from the child's parents;

(3) ascertain the date by which it is likely the child may be returned to the home or placed for adoption or legal guardianship;

(4) determine whether there has been compliance with applicable provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act) and other applicable state and federal laws; and

(5) determine whether there has been compliance with court review requirements of AS 47.10.080(f) and (l) and 47.10.142(h).

(g) The local review panel shall within 15 working days after reviewing the case submit a written report to the persons listed in (c) of this section.

(h) The report required under (g) of this section must make advisory recommendations based on the best interests of the child in accordance with AS 47.10.082 and must include notification of the right to request court review under AS 47.10.080(f). If the court has scheduled the case for review, the local review panel shall submit its report at least 20

days before the hearing, and the department shall present to the court the recommendations that are made in the report.

(i) The local review panel shall report to the state board information needed by the state board to prepare the report required under AS 47.14.210.

Sec. 47.14.250. Cooperation with state board and local review panels.

(a) The department, Department of Law, other departments of the executive branch, public defender, office of public advocacy, and court system shall cooperate with the state board and the local review panels to facilitate timely review of plans for children whose cases are reviewed under AS 47.14.200 - 47.14.299. The duty of executive branch agencies to cooperate under this section extends to the provision of addresses and other information necessary for a local panel to locate a person entitled to participate in a review under AS 47.14.240(c) or (d) if the addresses and other information may be disclosed by the agency to the department for conducting its child protection and child placement duties under this title notwithstanding that providing the addresses or other information to entities other than the department may be prohibited under other laws relating to those agencies.

(b) The department shall cooperate and consult with the state board in the development of departmental information systems relating to children in out-of-home placements whose cases are subject to review by local review panels. The department shall develop information systems that ensure that aggregate data and individual case information needed by the state board and the local review panels for the performance of their duties are readily available from all of the department's information systems.

Sec. 47.14.260. Records: communications.

(a) Notwithstanding AS 47.10.090 and 47.10.093, at the request of a local review panel, the department, a municipality, the child's guardian ad litem, and the court shall furnish to the local review panel relevant records concerning a child and the child's family who are the subjects of a local panel review. At the conclusion of a review, all copies of records provided to a local review panel under this section shall be returned to the staff that serves the local review panel or to the agency from which the original copy was obtained unless the local review panel members need the copies to prepare the reports required under AS 47.14.240(g) - (i). Copies retained for preparation of the reports shall be returned to the staff that serves the local review panel or to the originating agency upon completion of the reports. Notwithstanding AS 44.62.310, records and reports of the local review panel, testimony before the local review panel,

and deliberations of the local review panel are confidential under AS 47.10.090.

(b) A public member of a local review panel may not reveal to another person, other than another member of the local review panel or the staff serving the local review panel, a communication made to the member while performing the member's duties under AS 47.14.200 - 47.14.299 except as required under AS 47.17 or as required by court order for good cause shown. A public member of a local review panel may share with the state board communications made during the public member's performance of official duties if the public member omits identifying information.

(c) A local review panel proceeding is not governed by AS 44.62.310.

Sec. 47.14.270. Court review of report.

(a) The local review panel shall submit its final report to the court to aid the court in its review of temporary custody orders issued under AS 47.10.142 and in its dispositional hearings and reviews under AS 47.10.080 and 47.10.083.

(b) The court may refer to the board for assignment to a local review panel a case called for a special review under AS 47.10.080(f), as appropriate.

Sec. 47.14.280. Immunity of board and panel members and staff.

A state board member, a local review panel member, and a person serving as staff to the state board or a local review panel shall be immune from civil liability for a negligent act or omission of the board or panel member or a person serving as staff to the board or a local review panel that occurs in the performance of the member's or person's duties under AS 47.14.200 - 47.14.299 unless the civil liability results from the board or panel member's or other person's gross negligence or violation of

(1) AS 47.14.260(b); or

(2) the oath or affirmation required under AS 47.14.220(e).

Sec. 47.14.299. Definitions.

In AS 47.14.200 - 47.14.299,

(1) "board" means the state board;

(2) "department" means the Department of Health and Social Services;

(3) "local review panel" means a local review panel appointed under AS 47.14.220;

(4) "out-of-home care provider" means an agency or person, other than the child's legal parents, with whom a child who is in the custody of the state under AS 47.10.080(c)(1) or (3), 47.10.142, or AS 47.14.100(c)

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is currently placed; in this paragraph, "agency or person" includes a foster parent, a relative other than a parent, a person who has petitioned for adoption of the child, and a residential child care facility;

(5) "panel" means a local review panel;

(6) "state board " means the Citizens' Foster Care Review Board established in AS 47.14.200.

PF:mdr
03-089.mdr



HOUSE STATE AFFAIRS COMMITTEE

STATE CAPITOL, ROOM 102
465-2028

MEMORANDUM

COMMITTEE MEMBERS

Rep. Bruce Weyhrauch
Chairman
Room 102
465-2028

Rep. Jim Holm
Vice-Chair
Room 110
465-3466

Rep. Paul Seaton
Room 428
4652689

Rep. Nancy Dahlstrom
Room 108
465-4949

Rep. Bob Lynn
Room 415
465-4931

Rep. Ethan Berkowitz
Room 404
465-4919

Rep. Max Gruenberg
Room 112
465-4940

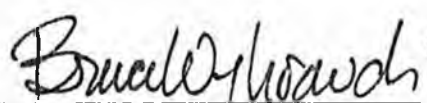
Date: April 24, 2003

To: Speaker Kott

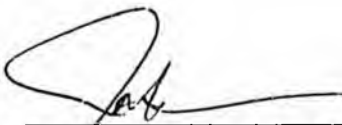
From: House State Affairs Committee

Re: SB 49

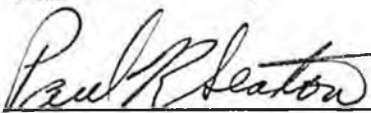
The House State Affairs Committee has agreed to waive SB 49 – The Revisor’s Bill out of Committee. The next committee of referral is the Judiciary Committee where the majority of the work on this bill will take place.



Representative Bruce Weyhrauch
Chair



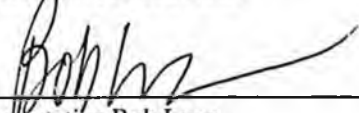
Representative Jim Holm, Vice-Chair



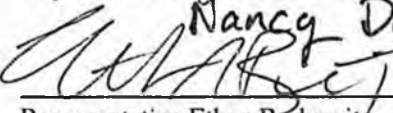
Representative Paul Seaton



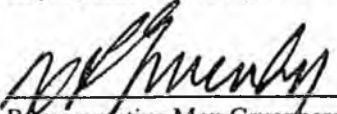
Representative Nancy Dahlstrom



Representative Bob Lynn



Representative Ethan Berkowitz



Representative Max Gruenberg

waved STA 4-24-03

Gunny
Please put
in the
"official bill
file"

100-100000

4/24/03

Bruce - if the
wording is all right
on this, go ahead and
get it signed. Please
have a page make
a copy for the file.

You need to make an
announcement on the
floor that the committee
wishes to waive the bill from
Committee.

SB

53



SENATOR SCOTT OGAN Alaska State Legislature

Senate District H Lazy Mountain * Butte * Chugiak * Peters Creek * Fairview Loop

Knik-Goose Bay * Big Lake * Houston * Willow * Talkeetna * Trapper Creek

State Capitol, Room 103, Juneau Alaska 99801 *(907) 465-3878*1 (800) 862-3878 * Fax (907) 465-3265

Senator_Scott_Ogan@legis.state.ak.us

[Http://www.akrepublicans.org/ogan](http://www.akrepublicans.org/ogan)

May 6, 2003

The Honorable Lesil McGuire, Chair
House Judiciary Committee
Alaska State Legislature
State Capitol, Room 118
Juneau AK 99801

RE: SB 53 (Revoke Driver's License for Fatal Accident)

Dear Representative McGuire:

Senate Bill 53 has passed the Senate and the bill was moved out of House Transportation Committee today. It has now been referred to your Judiciary Committee. I am writing to request that the bill be scheduled for a hearing at your earliest convenience.

Included with this letter of request are the bill, my sponsor statement, a sectional analysis, and supporting documents.

If you have any questions about the bill or require further information, please feel free to call me at any time. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "Scott Ogan".

Senator Scott Ogan

Enclosures



SENATOR SCOTT OGAN Alaska State Legislature

Senate District H Lazy Mountain * Butte * Chugiak * Peters Creek
Knik-Goose Bay * Big Lake * Houston * Willow * Talkeetna * Trapper Creek

State Capitol, Room 103, Juneau Alaska 99801*(907) 465-3878*1 (800) 862-3878 * Fax (907) 465-3265

Senator_Scott_Ogan@legis.state.ak.us

[Http://www.akrepublicans.org/ogan](http://www.akrepublicans.org/ogan)

23-LSO432VA

January 31, 2003

Revision Date: February 18, 2003

SPONSOR STATEMENT

SB53: REVOKE DRIVER'S LICENSE FOR FATAL ACCIDENT

The bill allows a court to revoke the driving privileges of a driver who violates the traffic laws, and the violation contributes to an automobile accident that results in a death. Drivers who violate traffic laws may not have committed a crime, but if their poor driving causes the death of another person, their driving privileges should be revoked. Several traffic deaths occur in Alaska every year when a driver causes the death of another by poor driving and the only consequence is a small fine. This is very difficult for the families of the victims. Under these circumstances, Senate Bill 53 provides revocation of driving privileges for a period of up to three years. This period would be concurrent with any other revocation that might apply, and the court may grant a limited license if the court finds the limited license will not endanger the public.

Contact: Karen Sawyer

465-3878

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


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

MEMORANDUM

February 5, 2003

SUBJECT: Traffic accident involving a fatality (SB 53)

TO: Senator Scott Ogan
Attn: Karen

FROM: Michael F. Ford 
Legislative Counsel

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

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

Section 1. Requires the Alaska Supreme Court and municipalities to establish rules that require a court appearance when a person is cited for a traffic offense that involves a motor vehicle accident that results in a fatality.

Section 2. Provides for driver's license revocation of up to three years when a person is convicted of violating traffic laws, the violation caused an accident and a fatality, and the violation was a significant contributing cause of the accident. Allows the court to grant limited license privileges, and allows a family representative of the person who died in the accident to testify.

Section 3. Provides for indirect amendment of Rules 43 and 43.1 of the Alaska Rules of Administration and provides that section 1 only takes effect if section 1 receives a two-thirds majority vote of each house of the legislature.

Section 4. Provides that the Act applies to accidents that occur on or after the effective date of the Act.

Section 5. Effective date.

MFF:med
03-106.med

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 53
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to disposition of a traffic offense BRU Criminal Division
involving the death . . . revocation of driving privileges. . ." Component All
Sponsor Senator Ogan
Requester Senate Transportation Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would allow the revocation of driving privileges for up to three years of a person who drives a vehicle, including a commercial vehicle, that is involved in a fatal traffic accident if the person is convicted of a violation of traffic laws in connection with the accident, and the violation of the traffic laws was a significant contribution to the accident that resulted in the death of another person.

Because conviction of the traffic offense may result in loss of a valuable license, the person has a right to a jury trial. However, a jury trial on traffic matters is a relatively short time commitment. The Department of Law estimates less than a dozen of these trials will occur statewide per year, and does not anticipate a measurable fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division Attorney General's Office Date/Time 2/11/03 9:12 AM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/11/2003
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 53
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title License revocation for traffic offense BRU Legal and Advocacy Services
involving fatality Component Public Defender Agency
Sponsor Senator Ogan
Requester (S) TRA Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	***	***	***	***	***	***
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: ***

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	***	***	***	***	***	***
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Public Defender Agency's operations may be affected by this bill. Drivers generally do not have a right to a court-appointed attorney in traffic violation proceedings. However, the Alaska Supreme Court has held that a person has a right to a jury trial (and court-appointed counsel) for offenses which may result in loss of valuable license such as a driver's license. Baker v. City of Fairbanks, 471 P.2d 386 (Alaska 1970). The Public Defender Agency does not anticipate many of these cases and does not have a reliable way of estimating the costs. Therefore, the fiscal impact is indeterminate.

Prepared by: Linda K. Wilson, Deputy Director
Division: Public Defender Agency
Approved by: Mike Miller, Commissioner
Agency: Department of Administration

Phone (907)-334-4416
Date/Time 2/18/03 6:20 AM
Date 2/18/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 53
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title License revocation for traffic offense BRU Motor Vehicles
involving fatality Component _____
Sponsor Senator Ogan
Requester (S) TRA Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	1.0	1.0	1.0	1.0	1.0	1.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
There will be approximately 10 revocations per year and the reinstatement fee for each driver is \$100. The 10 revocations is only a very small fraction of the total revocation workload and will not require extra expenditure.

Prepared by: Kevin Jardell, Assistant Commissioner Phone (907)-465-5568
Division: Dept. of Admin. Date/Time 2/17/03 1:36 PM
Approved by: Mike Miller, Commissioner Date 2/17/2003
Agency: Department of Administration

February 5, 2003

Senator Scott Ogan
State Capitol
Juneau AK 99801

In Support of Senate Bill 53

Our family has experienced the unfortunate and untimely loss of our son through a motor vehicle accident in March of 1994. At the time of his accident, there were and still are no laws in affect in our state to deal with this situation.

The young man involved in the accident received no punishment of any kind, again, because of the way our laws are set up in the state of Alaska. He did not receive anything but a basic slap on the hand and was involved in another vehicle accident in the months following this accident.

As one can imagine, this was very disturbing to our family. We attended his hearing at traffic court in Palmer and even the judge apologized to us for being unable to do anything due to the way the laws read in our state. He received 300 hours of community service for the deaths of two young men and then was later involved in another vehicular accident involving the deaths of two more young men.

Had this law been in place at that time, at least this young man would not have been behind the wheel of a car and been involved in further accidents. There were witnesses to the accident but all of this was to no avail. They were not even allowed to testify at the hearing.

In summary, we not only had to deal with the unexpected loss of our nineteen-year-old son, but also the emotional trauma of knowing an injustice had taken place and no recompense was to follow.

There needs to be some kind of accountability put on the driver in this type of accident. I believe SB 53 would be a step in the right direction and put the responsibility on the driver.

Sincerely,

Nancy Campbell
P.O. Box 3075
Palmer AK 99645

Taylor, Albert (Lewis)
From: Taylor, Albert (Lewis)
Sent: Monday, February 10, 2003 9:52 AM
To: 'Senator Scott Ogan'
Subject: FW: Senate Bill #53

-----Original Message-----

From: Taylor, Albert (Lewis)
Sent: Monday, February 10, 2003 9:46 AM
To: 'Senator Scott Ogan'
Subject: Senate Bill #53

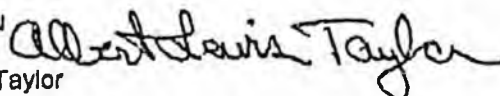
Senator Ogan

I was lead to believe that driving is a privilage. If a motor vehicle operator / driver chooses to drive irresponsibly, (breaking traffic laws and killing others), then their driving privileges should be taken from them. There are too many deaths on our roads and highways brought on by negligence due to the actions of careless and irresponsible drivers.

Senate Bill #53 would be a step towards holding these irresponsible and careless drivers accountable for there actions. Also, it will be an encouragement for others to drive more responsibly.

I would like to encourage you and your fellow legislatures to pass this bill.

Thank You



Albert Lewis Taylor
POB111033
Anchorage Alaska

(907-3447486)

tiak@Alaska.net



MADD

Activism | Victim Services | Education™

Mothers Against Drunk Driving
JUNEAU CHAPTER
211 4th St., Suite 314
Juneau, AK 99801
Phone (907)463-2562
Fax (907)463-2540
madd@alaska.net
www.madd.org/ak/juneau

April 25, 2003

Senator Ogan
State Capitol
Juneau, Alaska 99801-1182

RE: Senate Bill 53

Dear Senator Ogan,

The MADD Alaska Chapters support Senate Bill 53.

Too often drunk driving offenders walk out of court rooms with lesser charges because of various technicalities. Since they do not lose their drivers license they feel confident to continue the dangerous habit of drinking and driving.

One example is when a suspected drunk driver fails the litmus test. By the time they take the breathalyzer test enough time has passed between the arrest and the time blown into the breathalyzer that the BAC level has dropped below .08. The DUI charge usually drops to a lesser one such reckless driving.

This bill will create stiffer consequences for those who drive while intoxicated.

This bill will serve as a deterrent for those who do not want to risk losing their license regardless of the charge.

Sincerely,

Cindy Cashen
Executive Director

Article 04. DISPOSITION OF CERTAIN VEHICLE AND TRAFFIC OFFENSES**Sec. 28.05.151. Citations for scheduled vehicle and traffic offenses.**

(a) The supreme court shall determine by rule or order those motor vehicle and traffic offenses, except for offenses subject to a scheduled municipal fine, that are amenable to disposition without court appearance and shall establish a scheduled amount of bail, not to exceed fines prescribed by law, for each offense. A municipality shall determine by ordinance the municipal motor vehicle and traffic offenses that may be disposed of without court appearance and shall establish a fine schedule for each offense.

(b) The supreme court shall establish a scheduled amount of bail allowing disposition of a citation for a violation of AS 28.05.095 without court appearance.

(c) The supreme court shall require as a condition of the disposition of an offense without appearance that a person charged with any offense for which a bail forfeiture amount has been adopted shall pay the surcharge prescribed in AS 12.55.039 in addition to the bail forfeiture amount established by the supreme court. The surcharge required to be paid under this subsection shall be deposited into the general fund and accounted for under AS 37.05.142.

(d) The supreme court, in establishing scheduled amounts of bail under this section, and each municipality that establishes or has established a fine schedule under this section shall provide that the scheduled amount of bail or fine, as applicable, for a motor vehicle or traffic offense that is committed in a highway work zone shall be double the amount of the bail or fine for the offense if it had not been committed in a highway work zone.

Sec. 28.15.261. Definitions for AS 28.15.221 - 28.15.261.

In AS 28.15.221 - 28.15.261

(1) "licensee" includes, but is not limited to, an applicant for a new driver's license if the applicant's license was revoked under AS 28.15.221 - 28.15.261;

(2) "traffic laws" means statutes, regulations, and municipal ordinances governing the driving or movement of vehicles.

Sec. 28.15.165. Administrative revocations and disqualifications resulting from chemical sobriety tests and refusals to submit to tests.

(a) A law enforcement officer shall read a notice, and deliver a copy of it, to a person operating a motor vehicle, commercial motor vehicle, or aircraft, if a chemical test administered under AS 28.33.031(a) or AS 28.35.031(a) or (g) produces a result described in AS 28.35.030(a)(2); a chemical test administered under AS 28.33.031(a) produces a result described in AS 28.33.030(a)(2); or the person refuses to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) or (g). The notice must advise that

(1) the department intends to revoke the person's driver's license, privilege to drive, or privilege to obtain a license, refuse to issue an original license to the person, or disqualify the person;

(2) the person has the right to administrative review of the action taken against the person's license or determination not to issue an original license;

(3) if the person has a driver's license or a nonresident privilege to drive, the notice itself is a temporary driver's license that expires seven days after it is delivered to the person, except that if the person was operating a commercial motor vehicle the person will be ordered out of service for 24 hours under AS 28.33.130;

(4) revocation of the person's driver's license, privilege to drive, or privilege to obtain a license, a determination not to issue an original license, or a disqualification of the person, takes effect seven days after delivery of the notice to the person unless the person, within seven days, requests an administrative review.

(b) After reading the notice under (a) of this section, the law enforcement officer shall seize the person's driver's license if it is in the person's possession and shall deliver it to the department with a

sworn report describing the circumstances under which it was seized. If the person was operating a commercial motor vehicle, the officer shall order the person out of service under AS 28.33.130.

(c) Unless the person has obtained a temporary permit or stay of a departmental action under AS 28.15.166, if the chemical test administered under AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's license, privilege to drive, or privilege to obtain a license, shall refuse to issue an original license, and, if the chemical test administered under AS 28.33.031(a) produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a chemical test authorized under AS 28.33.031(a), shall disqualify the person. The department's action takes effect seven days after delivery to the person of the notice required under (a) of this section, and after receipt of a sworn report of a law enforcement officer

(1) that a chemical test administered under AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a chemical test administered under AS 28.33.031(a) produced a result described in AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) or (g);

(2) that notice under (a) of this section was provided to the person; and

(3) describing the

(A) circumstances surrounding the arrest and the grounds for the officer's belief that the person operated a motor vehicle, commercial motor vehicle, or aircraft while under the influence of an alcoholic beverage, inhalant, or controlled substance in violation of AS 28.33.030 or AS 28.35.030; or

(B) grounds for the officer's belief that the person operated a motor vehicle or commercial motor vehicle that was involved in an accident causing death or serious physical injury to another person.

(d) The period of revocation of a driver's license, privilege to drive, privilege to obtain a license, refusal to issue an original license, or disqualification shall be for the appropriate minimum period for court revocations under AS 28.15.181(c) or court disqualifications under AS 28.33.140. A department hearing officer may grant limited license privileges in accordance with the standards set out in AS 28.15.201 to a person whose driver's license or nonresident privilege to drive was revoked under this section. The department may terminate a revocation imposed under this section and issue a driver's license to the person, if the license, privilege to drive, or privilege to obtain a license was revoked for an offense described in AS 28.15.181(a)(5) or (8) and the person meets the conditions set out for termination of a revocation by the court under AS 28.15.181(f).

Sec. 28.15.181. Court suspensions, revocations, and limitations.

(a) Conviction of any of the following offenses is grounds for the immediate revocation of a driver's license, privilege to drive, or privilege to obtain a license:

(1) manslaughter or negligent homicide resulting from driving a motor vehicle;

(2) a felony in the commission of which a motor vehicle is used;

(3) failure to stop and give aid as required by law when a motor vehicle accident results in the death or personal injury of another;

(4) perjury or making a false affidavit or statement under oath to the department under a law relating to motor vehicles;

(5) operating a motor vehicle or aircraft while under the influence of an alcoholic beverage, inhalant, or controlled substance;

(6) reckless driving;

(7) using a motor vehicle in unlawful flight to avoid arrest by a peace officer;

(8) refusal to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle, commercial motor vehicle, or aircraft while under the influence of an alcoholic beverage, inhalant, or controlled substance, or authorized under AS 28.35.031(g);

(9) driving while license, privilege to drive, or privilege to obtain a license, canceled, suspended, or revoked, or in violation of a limitation;

(10) vehicle theft in the first degree in violation of AS 11.46.360 or vehicle theft in the second degree in violation of AS 11.46.365.

(b) A court convicting a person of an offense described in (a)(1) - (4), (6), (7), or (10) of this section shall revoke that person's driver's license, privilege to drive, or privilege to obtain a license for not less than 30 days for the first conviction, unless the court determines that the person's ability to earn a

livelihood would be severely impaired and a limitation under AS 28.15.201 can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public. If a court limits a person's license under this subsection, it shall do so for not less than 60 days. Upon a subsequent conviction of a person for any offense described in (a)(1) - (4), (6), (7), or (10) of this section occurring within 10 years after a prior conviction, the court shall revoke the person's license, privilege to drive, or privilege to obtain a license and may not grant the person limited license privileges for the following periods:

(1) not less than one year for the second conviction; and

(2) not less than three years for a third or subsequent conviction.

(c) A court convicting a person of an offense described in (a)(5) or (8) of this section arising out of the operation of a motor vehicle, commercial motor vehicle, or aircraft shall revoke that person's driver's license, privilege to drive, or privilege to obtain a license. The revocation may be concurrent with or consecutive to an administrative revocation under AS 28.15.165. The court may not, except as provided in AS 28.15.201, grant limited license privileges during the minimum period of revocation. Except as provided under AS 28.35.030(n)(3) and 28.35.032(p)(3), the minimum periods of revocation are

(1) not less than 90 days if the person has not been previously convicted;

(2) not less than one year if the person has been previously convicted once;

(3) not less than 3 years if the person has been previously convicted twice;

(4) not less than 5 years if the person has been previously convicted more than twice.

(d) A court convicting a person of an offense described in (a)(9) of this section shall revoke that person's driver's license, privilege to drive, or privilege to obtain a license for not less than the minimum period under AS 28.15.291(b)(4).

(e) [Repealed, Sec. 34 ch 119 SLA 1990].

(f) The court may terminate a revocation for an offense described in (a)(5) or (8) of this section if

(1) the person's license, privilege to drive, or privilege to obtain a license has been revoked for the minimum periods set out in (c) of this section; and

(2) the person complies with the provisions of AS 28.15.211(d) and (e).

(g) The court may suspend the driver's license, privilege to drive, or privilege to obtain a license of a person who fails to appear in court as required by a citation for an offense involving a moving motor vehicle, or who fails to pay a fine as required by the court for an offense involving a moving motor vehicle. If the court suspends a driver's license under this subsection, the court shall also provide notice of the suspension to the department. A suspension imposed under this subsection remains in effect until the person appears in court as required by the citation, or pays the fine as required by the court. When the person appears in court or pays the required fine, the court shall terminate the suspension imposed under this subsection and provide the department and the person with written notice of the termination.

(h) A court convicting a person under AS 04.16.050(c) or (d) shall revoke the person's driver's license or permit, privilege to drive, or privilege to obtain a license as provided in AS 04.16.050(c) or (d).

(i) In this section, "previously convicted" has the meaning given in AS 28.35.030.

Rule 43. Bail Forfeiture Schedules.

(a) **Procedure for Adopting Bail Forfeiture Schedule.** The supreme court will consider adopting a bail forfeiture schedule only when so authorized by statute. The agency charged with enforcement under a statute for which a bail forfeiture schedule has been authorized shall forward to the administrative director its recommendations for a proposed schedule, listing offenses by number, describing the offenses, and proposing a bail forfeiture amount. The proposed schedule shall be accompanied by commentary explaining the basis for the agency's recommendation, and by a copy of the proposed citation form. The supreme court shall consider the recommendation, and shall determine whether to adopt a bail forfeiture schedule, and if so, shall determine which offenses are amenable to disposition by bail forfeiture and whether the bail forfeiture amounts are appropriate. The administrative director shall notify the agency when an order adopting the schedule is issued.

(b) Procedures for Amending Bail Forfeiture Schedules.

(1) By July 1 of each year, each agency charged with enforcement under a statute for which a bail forfeiture schedule has been authorized shall forward to the administrative director of the Alaska Court System its written recommendation concerning whether the schedule must be amended to reflect any legislative and regulatory changes, or whether policy considerations warrant revisions. Any proposed amendments shall be accompanied by commentary. The supreme court shall consider the agency's recommendations and determine by October 1 whether to adopt them. If it will be impractical for the court to respond by that date, the administrative director will inform the agency of the date by which the response can be expected. The administrative director shall notify the agency when an order amending the schedule is issued.

(2) In addition to the provisions of paragraph (b)(1), an agency may request a bail forfeiture schedule amendment whenever the need arises.

(3) Any person or agency may request a bail forfeiture schedule amendment at any time by proposing an amendment in writing to the chief justice or to the administrative director.

(Adopted by SCO 651 effective July 1, 1985; amended by SCO 1180 effective July 15, 1995)

Rule 43.1. Traffic Bail Forfeiture Schedule.

Pursuant to AS 28.05.151, the following vehicle and traffic offenses are amenable to disposition without court appearance upon payment and forfeiture of the bail amounts listed. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the bail amount for that offense listed below. An offense for which a bail forfeiture amount has been established shall be charged on a citation which meets the requirements of District Court Criminal Rule 8(c) and shall not be filed, numbered or processed as a criminal case.

Effective April 30, 1999, the bail amounts listed below are doubled for violations of AS 28 and regulations adopted under AS 28 committed within a highway work zone, as that term is defined in AS 28.40.100 and 13 AAC 40.010(b).

Pursuant to AS 28.15.131 and 13 AAC 04.008, a citation for an offense listed as "Corr" must be dismissed (or voided) if proof of correction is presented to an inspection official within the time allowed. If the required repair is not made, the offense may be disposed of without court appearance upon payment and forfeiture of the bail amount listed.

Effective August 27, 1998, as a condition of the disposition of an offense without appearance, the defendant shall pay the surcharge prescribed in AS 12.55.039 in addition to the bail forfeiture amount listed below. A court may allow a defendant who is unable to pay the surcharge to perform community work under AS 12.55.055(c) in lieu of the surcharge. The surcharge must be deposited into the general fund in a separate account designated for such surcharges.

SB

64

Senator Hollis French


Capitol Room 504
465-3892
465-6595 fax



MEMORANDUM

DATE: May 5, 2003

TO: Representative Lesil McGuire, Chair
Judiciary Committee

FROM: Senator Hollis French 

RE: Request for a hearing on CS SB 64(JUD) – “An Act relating to a requirement that certain consumer reporting agencies provide individuals with certain information without charge”

This is a request that you schedule CS SB 64(JUD) – “An Act relating to a requirement that certain consumer reporting agencies provide individuals with certain information without charge” for a hearing at the earliest possible time.

I have attached a copy of the bill, a sponsor statement, a sectional analysis, and some other information for the committee packets.

I anticipate that representatives of the Department of Law (Ed Sniffen), AARP, and AKPIRG, among others, will testify at the Judiciary Committee hearing on this bill. Please arrange to have the meeting teleconferenced to the main locations.

Thank you for your attention.

Attachments

CS SB 64(JUD) - An Act relating to a requirement that certain consumer reporting agencies provide individuals with certain information without charge

SPONSOR STATEMENT

Identity theft is a growing problem both in our state and nationally. **CS SB 64(JUD) - "An Act relating to a requirement that certain consumer reporting agencies provide individuals with certain information without charge"** will provide Alaskans with an additional way to help protect themselves from identity theft and from the negative impacts of inaccurate credit reports.

Having your identity stolen is a devastating experience. More than 750,000 people may be victims of identity theft this year, and each will spend countless hours and, on average, more than \$1,000 to repair the damage done to his or her reputation and finances. Long after the initial damage is done, victims of identity theft continue to be turned down for loans, credit, and jobs. They are often made to feel like they are guilty parties and not, as is truly the case, the victims of a crime.

The first indication many consumers have that they have been the victim of identity theft is when problems crop up with their credit. Regularly reviewing one's own credit report is an easy way to stop identity theft in its early stages. Providing Alaskan consumers with one free credit report per year will help not only consumers but also the many, many businesses that extend credit. Minimizing the losses to the business community through identity theft is one aim of this legislation.

Businesses inspect consumers' credit histories when they evaluate applications for credit, insurance, employment, and even leases. Individuals' credit histories are recorded in files or records maintained by credit reporting agencies, which sell the reports. A credit record contains information about a person's income, debts, and credit payment history. It also indicates whether the person has been sued, been arrested, or filed for bankruptcy. If that information is incorrect, whether as a result of identity theft, fraud, or mistakes made by the consumer reporting agency, a consumer can suffer.

CS SB 64(JUD) will require consumer reporting agencies that maintain files on Alaskans to provide an individual with a free copy of his or her file (including all consumer credit reports) once annually, upon request. The bill does not impose an obligation on businesses to inform consumers of the right to a free credit report. In passing this legislation, Alaska will join six other states whose legislatures have taken strong action to help consumers protect and, if necessary, correct, their credit ratings.

***CS SB 64(JUD) - An Act relating to a requirement that certain
consumer reporting agencies provide
individuals with certain information without charge***

SECTIONAL ANALYSIS

- Section 1.** (a) Requires a consumer reporting agency that maintains a file on an individual who is a resident of Alaska to provide the individual with a free copy of the individual's file, including all consumer credit reports, upon request. One free report is required per year.
- (b) States that the provisions of (a) may not be interpreted to require a person doing business to notify a consumer about the right to receive a free copy of the individual's credit report.
- (c) Defines "consumer reporting agency" and "file."
- Section 2.** Adds violation of this Act to list of violations in AS 45.50.471(b), "unfair methods of competition" and "unfair or deceptive acts or practices."

*Senator Hollis French
April 17, 2003*

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 64
 (S) Publish Date: 4/4/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Credit Information BRU Banking, Securities & Corporations(115)
 Component Banking, Securities & Corporations
 Sponsor Senator French
 Requester Senate Labor & Commerce Component No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation provides that a consumer reporting agency that maintains a file on an Alaska resident shall, at the request of that individual, provide the individual with a complete copy of the individual's file, including all consumer credit reports each calendar year without charge. This legislation does not impact the operations of this division, and there are no fiscal impacts to the department.

Prepared by: Mark Davis, Director Phone 907-269-8452
 Division Banking, Securities & Corporations Date/Time 2/19/03 11:11 AM
 Approved by: Edgar Blatchford, Commissioner Date 2/19/2003
 Agency Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 64
 (S) Publish Date: 4/4/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title: "...requiring certain consumer reporting agencies
to provide individuals with certain reports without charge." BRU: Civil Division
 Component: Fair Business Practices
 Sponsor: Senator French
 Requester: Senate Labor and Commerce Component No. 2206

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill requires consumer reporting agencies who maintain a file on an individual who is an Alaska resident to provide a complete copy of that file, including consumer credit reports, to the individual once a year without charge. Failure to do so is an unlawful act under the unfair trade practices and consumer protection statutes.

The Department of Law's Consumer Protection unit anticipates any increased enforcement workload from passage of this bill could be handled by existing staff.

Prepared by: Joan M. Kasson
 Division: Attorney General's Office
 Approved by: Kathryn Daughhetee for Gregg D. Renkes, Attorney General
 Agency: Department of Law

Phone: (907) 465-5370
 Date/Time: 2/18/03 3:25 PM
 Date: 2/18/2003



Alaska State Legislature House and Senate Democrats

www.akdemocrats.org

FOR IMMEDIATE RELEASE • February 7, 2003

**CONTACT: Jordan Marshall • (907) 465-3842, Toll-free (888) 465-4919, Cell: 321-3682
Fax: 465-5125, Jordan_Marshall@legis.state.ak.us**

Free Credit Report to Help Prevent Identity Theft

Putting Alaskans First 2003

JUNEAU – Alaskan consumers could receive a free credit report annually under a bill introduced today by Senator Hollis French (D-Anchorage) and Representative Harry Crawford (D-Anchorage). SB 64 and HB 85 require consumer reporting agencies that maintain files on Alaskans to provide a free copy of an individual's file upon request.

"Identity theft is a growing problem both in our state and nationally," said Senator French. "The first indication many consumers have that they have been a victim of identity theft is when problems crop up with their credit. This legislation provides consumers with an additional way to help protect themselves. A good credit rating is valuable. It is important for individuals to check their credit files and reports regularly."

Businesses inspect consumers' credit histories when they evaluate applications for credit, insurance, employment, and even leases. Individuals' credit histories are recorded in files or reports maintained by credit reporting agencies, which sell the reports. A credit record contains information about a person's income, debts, and credit payment history. It also indicates whether the person has been sued, been arrested, or filed for bankruptcy. Indeed, credit reports are even used by insurance companies to set premium rates, in the controversial practice known as credit scoring.

"Having your identity stolen is a devastating experience. More than 750,000 people may be victims of identity theft this year, and each will spend, on average, countless hours and more than \$1,000 to repair the damage done to his or her reputation and finances. There is only one truly effective way to keep your identity clean: check your credit report at least once a year. By requiring consumer reporting agencies to provide individuals with one free report every year, this bill will help Alaskans protect their privacy and avoid the trauma and expense of discovering, too late, that their identity has been hijacked," said Crawford.

###

Putting Alaskans First • Moving Alaska Forward 2003

Sen. Bettye Davis, Sen. Johnny Ellis, Sen. Kim Elton, Sen. Lyman Hoffman, Sen. Hollis French, Sen. Gretchen Guess, Sen. Georgianna Lincoln, Sen. Donny Olson, Rep. Ethan Berkowitz, Rep. Sharon Cissna, Rep. Harry Crawford, Rep. Eric Croft, Rep. Les Gara, Rep. Max Gruenberg, Rep. David Gultenbera, Rep. Reaie Joule, Rep. Marv Kaosner, Rep. Bath Kerttula, Rep. Albert Konkash, Rep. Carl Mosee



Honorable Tom Anderson, Chair
House Labor and Commerce Committee
Alaska Capital, Room 432
Juneau, AK 99801-1182

May 5, 2003

RE: SB 64 (French) - Support

Dear Chair Anderson:

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the House Labor and Commerce Committee to support SB 64, authored by Senator Hollis French, and co-sponsored by fourteen other Senators, including eight Republicans and six Democrats.

AARP has always recommended to our members and their families that credit reports with the three major agencies should be checked once a year. Despite what we feel is good consumer advice, we know that many people do not follow through on this annual check because of the fees involved with charges for up to \$8.50 per company. A free annual check-up will not only increase the number of people who do a check-up but it will also increase the potential of identifying identity theft earlier. As you and your Committee colleagues know, identity theft is a growing problem for people of all ages. A recent AARP Public Policy Institute analysis of FTC complaint data found that complainants age 50 and over were more likely to report a number of different identity crimes than complainants of all ages.

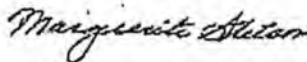
Credit reports and the ability for a consumer to access them at no cost will contribute to the ability of an individual to exercise control over the disclosure and subsequent uses of their personal information. AARP believes this is an essential component for good consumer protection. When you pass SB 64 you will help reduce the vulnerability of older Alaskans to fraud and unfair and deceptive marketing practices. With the widespread use of credit reports and credit scoring and other risk-based pricing models, SB 64 will help the individual consumer assure fair pricing and terms for credit and insurance, as well as access to rental housing and employment opportunities.

AARP urges an "AYE" vote on SB 64.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capital City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,



Marguerite Stetson
AARP Alaska
Executive Council Member for Advocacy
3009 Northwood Street
Anchorage, AK 99517-1871
907.245.5259 voice
907.245.5279 fax
ffmas@aurora.uaf.edu

cc: Vice-Chair Bob Lynn
Representative Nancy Dahistrom
Representative Carl Gatto
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg
Senator Hollis French
Marie Darlin
Patrick Luby



AKPIRG

ALASKA PUBLIC INTEREST RESEARCH GROUP

WWW.AKPIRG.ORG

PO Box 101093 ♦ Anchorage, Alaska 99510-1093 ♦ Ph: (907) 278-3661 ♦ Fax: (907) 278-9300 ♦ email: akpirg@akpirg.org

February 12, 2003

Testimony on SB 64 – Consumer Credit Reports

AkPIRG wishes to express its strong support for SB 64 (Companion HB 85), which will require consumer reporting agencies to provide, free of charge, a complete copy of an individual's file annually.

This legislation will make Alaska only the seventh state with such forward-thinking consumer protection. Credit reports and credit scores have become crucial to a person's ability to participate in the modern marketplace. Erroneous credit reports have hindered consumers from obtaining home loans, car loans and other financial tools. These errors are often difficult to correct and make consumers feel guilty until such time as they are able to prove themselves innocent.

SB 64 will be a valuable tool for consumers, allowing them to more accurately monitor their credit history in an effort to keep their record current. Accurate information will help all involved in the credit industry and should help reduce credit risks for all involved.

Consumers have the right to know what is in their credit file. A once a year option to receive this information free of charge is not an undue burden on consumer reporting agencies.

Therefore, AkPIRG urges passage and adoption of SB 64.

Thank you,

Steve Cleary
Executive Director, AkPIRG
278-3661

SB

85

TUNDRA WOMEN'S COALITION

WORKING TOGETHER TOWARD A BRIGHTER FUTURE



Representative Lesil McGuire
Room 118
State Capitol
Juneau, AK 99801-1182

May 15, 2003

Representative McGuire,

As a member of the House Judiciary Committee, I would like to take this opportunity to ask for your support with Senate Bill 85, which is currently being reviewed by your committee. SB85 increases sentences for repeat sex offenders and eliminates good time for convicted sex offenders. Thank you for your continued support.

Sincerely,

Zachary J. Fansier
Legal Advocate, Tundra Women's Coalition

Post-it® Fax Note	7671	Date	5/15/03	# of pages	1
To	Representative Lesil McGuire	From	Zach Fansier		
Co./Dept	Alaskan House of Rep.	Co.	Tundra Women's Coalition		
Phone #	907.465.2592	Phone #	907.543.3444		
Fax #	907.465.6592	Fax #	907.543.3752		

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. John Coghill
Rep. Jim Holm
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: May 18, 2003
Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS0512\U, CSSB 85 (JUD), incorporating the attached amendment. The bill was passed out of committee today and will be on the House floor today.

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

1 with illegal drugs, only if

2 (A) the victim was involved in the manufacture or delivery
3 of a controlled substance at the time of the crime or the crime and
4 victimization was a direct result of the prior manufacture or delivery of a
5 controlled substance; the evidence of this manufacture or delivery must be
6 corroborated by law enforcement or other credible sources; and

7 (B) the evidence shows a direct correlation linking the
8 illegal activity and the crime and victimization; or

9 (4) if a claim is based on a crime involving domestic violence or on
10 a crime of sexual abuse of a minor or sexual assault and the offender is

11 (A) convicted of one of those crimes, notwithstanding (1) -
12 (3) of this subsection, the board may not deny an order based on
13 considerations of provocation, the use of alcohol or drugs by the victim, or
14 the prior social history of the victim; or

15 (B) not convicted of one of those crimes, the board may not
16 deny an order based on the involvement or behavior of the victim."

17
18 Renumber the following bill sections accordingly.

AMENDMENT #1 - *Samuels*

OFFERED IN THE HOUSE

TO: CSSB 85(STA)

1 Page 1, line 1, following "Act":

2 Insert "relating to the factors that may be considered in making a crime victim
3 compensation award;"

4

5 Page 8, following line 6:

6 Insert a new bill section to read:

7 "* Sec. 10. AS 18.67.080(c) is amended to read:

8 (c) In determining whether to make an order under this section, the board shall
9 consider all circumstances determined to be relevant, including provocation, consent,
10 or any other behavior of the victim that directly or indirectly contributed to the
11 victim's injury or death, the prior case or social history, if any, of the victim, the
12 victim's need for financial aid, and any other relevant matters. In applying this
13 subsection.

14 (1) the board may not deny an order based on the factors in this
15 subsection, unless those factors relate significantly to the occurrence that caused
16 the victimization and are of such a nature and quality that a reasonable or
17 prudent person would know that the factors or actions could lead to the crime
18 and the victimization:

19 (2) with regard to circumstances in which the victim consented to,
20 provoked, or incited the criminal act, the board may consider those
21 circumstances only if the board finds that it is more probable than not that those
22 circumstances occurred and were the cause of the crime and the victimization:

23 (3) the board may deny an order based on the victim's involvement

Sentencing Guidelines for Repeat Sexual Offenders

Current Law and CS SB 85(STA) Proposal

CRIME	UNCLASSIFIED FELONIES	CLASS A FELONIES	CLASS B FELONIES	CLASS C FELONIES
	Sexual Assault 1 Sexual Abuse of Minor 1	Attempted Sexual Assault 1 Attempted Sexual Abuse of Minor 1	Sexual Assault 2 Sexual Abuse of Minor 2	Sexual Assault 2 Sexual Abuse of Minor 3
CURRENT LAW PRESUMPTIVE SENTENCES				
First felony offense	8	5	1 to 4	0
One prior felony	15	10	4	2
Two prior felonies	25	15	6	3
MAXIMUM SENTENCE	30	20	10	5
PROPOSAL PRESUMPTIVE SENTENCES				
First felony offense	8	5	1 to 4	0
One prior felony	15	10	5	2
One prior sex felony	20	15	10	3
Two prior felonies	25	15	10	<u>3</u>
Two prior sex felonies	30	20	15	6
MAXIMUM SENTENCE	40	30	20	10

23-LS1164A
Luckhaupt
5/17/03

**HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION**

BY

**Introduced:
Referred:**

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning Senate Bill No. 85, relating to sentencing and to the earning of**
3 **good time deductions for certain sexual offenses.**

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

5 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
6 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
7 changes to the title of a bill, are suspended in consideration of Senate Bill No. 85, relating to
8 sentencing and to the earning of good time deductions for certain sexual offenses.

CS SB 85 (STA)

Relating to sentencing and to the earning of good time deductions for certain sexual offenders

- CS SB 85 (STA) has two purposes: **first**, to increase the penalties for repeat sex offenders and, **second**, to add repeat sexual offenders to the list of those who are not eligible to earn a "good time" reduction of their terms.
- SB 85 is designed to treat repeat sex offenders differently from other repeat felons. Research has shown that sexual offenders are not like other offenders. They tend to commit a wide range and large number of sexually deviant acts during their lives and they show a continued propensity to offend.
- SB 85 addresses a pressing public safety issue in Alaska – the rate of reported rapes and other sexual assaults. Alaska has long had one of the highest rates of reported rapes per capita in the nation, ranking first among all states for 19 of the last 26 years, including 2001. SB 85 will do something about this undistinguished -- and shameful -- rating and provide additional protection for Alaska's women and children, the most frequent victims of sexual crimes.
- SB 85 addresses this issue by focusing on the worst of the worst – repeat sexual offenders, those who have been convicted of a sex offense and subsequently commit another sexual crime. A National Institute of Justice study concludes that adult offenders who commit sex crimes should be managed, treated, and supervised differently from other criminals.
- SB 85 establishes a separate, and more stringent, set of sentencing guidelines for those who commit second or subsequent sexual offenses or commit a sexual felony after a prior felony conviction. Current statutory guidelines in Alaska treat all repeat felons as though they were the same, that is, all prior felony convictions are given equal weight when an individual is sentenced on a new offense.
- CS SB 85 (STA) also adds repeat sexual offenders to the list of those who are not eligible to earn "good time" or a reduction in their prison terms for good behavior. CS SB 85 (STA) would require repeat sexual offenders to serve the full length of their sentences; they would not be eligible for parole.

ALASKA STATE LEGISLATURE

Senate
Judiciary
Committee

•

Senate
Labor & Commerce
Committee

•

Senate
Administrative
Regulation Review
Committee



SENATOR HOLLIS FRENCH

Senator_Hollis_French@legis.state.ak.us
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SPONSOR STATEMENT – CS SB 85 (STA)

An Act relating to sentencing and to the earning of good time deductions for certain sexual offenders

CS SB 85(STA) – “An Act relating to sentencing and the earning of good time deductions for certain sexual offenders” addresses a pressing public safety issue in Alaska. Our state has long had one of the highest rates of reported rapes per capita in the nation, ranking first among all states for 19 of the last 26 years, including 2001. It is time to do something about this undistinguished -- and shameful -- rating and to provide additional protection for Alaska’s women and children, the most frequent victims of sexual crimes. SB 85 addresses this issue by focusing on the worst of the worst – repeat sexual offenders, those who have been convicted of a sex offense and subsequently commit another sexual crime.

CS SB 85 (STA) has two purposes: first, to increase the penalties for repeat sex offenders and, second, to add repeat sexual offenders to the list of those who are not eligible to earn a “good time” reduction of their terms.

CS SB 85(STA) is designed to treat repeat sex offenders differently from other repeat felons. Research has shown that sexual offenders are not like other offenders. As noted in a National Institute of Justice (NIJ) research report on managing adult sex offenders, sex crimes flourish in secrecy. Many offenders are otherwise highly functioning and use their social skills to commit their crimes and to manipulate both victims and criminal justice officials. Offenders are often very accomplished at presenting a facade designed to hide the truth about themselves. Many sex offenders commit a wide range and large number of sexually deviant acts during their lives and show a continued propensity to offend. The NIJ study

concludes that adult offenders who commit sex crimes should be managed, treated, and supervised differently from other criminals.

Current statutory guidelines in Alaska, however, treat all two-time felons as though they were the same, that is, all prior felony convictions are given equal weight when an individual is sentenced on a new offense. For example, a judge sentencing a person convicted of a second forgery or a second sexual offense has to operate under the same sentencing guidelines. SB 85 establishes a separate, and more stringent, set of sentencing guidelines for those who commit second or subsequent sexual offenses or commit a sexual felony after a prior felony conviction.

The other proposed change in the law in CS SB 85 (STA) is to add repeat sexual offenders to the list of those who are not eligible to earn “good time” or a reduction in their prison terms for good behavior. Under current law, most prisoners, including sexual offenders, can earn a one-third reduction of their sentences for good behavior. CS SB 85 (STA) would require repeat sexual offenders to serve the full length of their sentences; they would not be eligible for parole.

By increasing sentences for repeat sexual offenses and actual time served for these offenses, SB 85 will help to protect Alaska’s women and children from some of the most heinous crimes against them, sexual felonies.

I urge your support of this legislation.

Senator Hollis French
April 11, 2003

SECTIONAL ANALYSIS -- CS SB 85 (STA)

An Act relating to sentencing and to the earning of good time reductions for certain sexual offenses

- Section 1** Amends AS 12.55.12(c) to bring it into conformance with the new AS 12.55.125(i) enacted by this bill.
- Section 2** Amends AS 12.55.12(d) to bring it into conformance with the new AS 12.55.125(i) enacted by this bill.
- Section 3** Amends AS 12.55.12(e) to bring it into conformance with the new AS 12.55.125(i) enacted by this bill.
- Section 4** Corrects a reference to a subsection repealed in earlier legislation.
- Section 5** Establishes a separate, and more stringent, sentencing schedule for individuals convicted of "sexual felonies" (see below, Section 9). Increases maximum term for first offenses. Establishes new maximum and presumptive sentences (see Attachment A) for conviction of a second or subsequent sexual felony. Under current law, sentencing for a second felony, whether it is sexual felony or another type of felony, is controlled by the same statutory requirements for maximum and presumptive sentences.
- Section 6** Provides guidelines on how to consider prior convictions in Alaska or other jurisdictions when imposing sentences.
- Section 7** Corrects a reference to a subsection repealed in earlier legislation.
- Section 8** Corrects a reference to a subsection repealed in earlier legislation.
- Section 9** Provides a definition for "sexual felony."
- Section 10** Adds repeat sexual felons to the list of those not eligible for a "good time" reduction in their term of imprisonment.
- Section 11** Establishes that the provisions of the bill are applicable to sentencings and calculation of "good time" for offenses committed on or after the effective date of the Act.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB85(STA)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Department of Corrections
Title Good Time Deductions for Sexual Offenses BRU Administration & Operations
Sponsor Senator French Component _____
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 200*	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	*	*	*
Travel	0.0	0.0	0.0	*	*	*
Contractual	0.0	0.0	0.0	*	*	*
Supplies	0.0	0.0	0.0	*	*	*
Equipment	0.0	0.0	0.0	*	*	*
Land & Structures	0.0	0.0	0.0	*	*	*
Grants & Claims	0.0	0.0	0.0	*	*	*
Miscellaneous	0.0	0.0	0.0	*	*	*
TOTAL OPERATING	0.0	0.0	0.0	*	*	*
CAPITAL EXPENDITURES	0.0	0.0	0.0	*	*	*
CHANGE IN REVENUES ()	0.0	0.0	0.0	*	*	*

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections does not expect additional costs as a result of changes to sentencing in SB 85 in the first three years after enactment. For years beyond FY 07, there may be a cost to the department due to the increase in the length of sentences and the elimination of good time deductions for repeat sexual offenders, but it cannot be determined with any precision. Please see attached.

Prepared by: Jerry D. Burnett, Director
Division: Administrative Services
Approved by: Portia C.K. Parker, Deputy Commissioner
Agency: Department of Corrections

Phone 465-3339
Date/Time 4/29/03 11:41 AM
Date 4/29/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSSB 85(STA)

ANALYSIS CONTINUATION

In an attempt to determine the potential impact on the Department of Corrections (DOC), the DOC Research Section researched the re-offend rate of sex offenders in the department's custody. The research section reported that there were 727 sex offenders in the department's custody on April 2, 2003.

Number of the 727 sex offenders who are repeat offenders (in the department's custody for any reason previously):

- In DOC custody on a sex offense	727	100%
- In DOC previously and released at some point	581	80%
- Average number of times sex offender admitted to DOC (up to 11/11/2001)	6.24 times	
- Percent admitted to DOC 10 or more times (581= 100%)	302	52%

Major offenses committed when admitted to DOC (by the 727 sex offenders in custody on 04/02/03):

- Parole/Probation/Court violations, etc.	25%
- All sex offenses (sex assault/abuse/etc.)	15%
- All alcohol (DUI/Minor Consuming/etc.)	13%
- All Assaults	16%
- Theft/Burglary/Larceny/Robbery	11%
- All traffic	5%
- All Other	15%

Given the high level of recidivism for all offenses among this group of sex offenders, it is likely that many of the inmates who would receive a longer sentence under the provisions of SB 85 already would spend a significant portion of that time in prison for some charge regardless of passage of this legislation. Keeping this group of sex offenders in prison for longer periods for a single crime, and thus incarcerated in lower cost, long-term facilities, may reduce or contain costs for booking/intake, inmate transportation and may help contain increasing demands for pre-trial bed space.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 85
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to sentencing and goor BRU Legal and Advocacy Services
for felony sexual offenses Component Public Defender Agency
 Sponsor Senator French
 Requester Senate State Affairs Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	*	*	*	*	*	*
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached page for analysis.

Prepared by: Linda K. Wilson, Deputy Director
 Division: Public Defender Agency
 Approved by: Mike Miller, Commissioner
 Agency: Department of Administration

Phone (907)-334-4416
 Date/Time 4/28/03 7:32 PM
 Date 4/28/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSSB 85

ANALYSIS CONTINUATION

This bill has three distinct features. Sections 1-5 propose to increase the maximum sentences for all felony sexual offenses, and to increase the presumptive sentences for felony sexual offense convictions for first offenders and when the defendant has a prior sexual felony conviction. Section 6 eliminates the 10-year look back limitation for prior convictions for class B and C sexual offense felonies that the court considers when determining if presumptive sentencing applies and for general sentencing purposes in all sexual felony cases. Currently only prior felony convictions where less than 10 years from the date of the defendant's unconditional discharge on the immediately preceding offense and the commission of the present offense has elapsed may be considered by the court in class B and C felony sentencing proceedings. Lastly, Section 10 of the bill proposes to eliminate entirely the award of good time to prisoners convicted of a sexual felony who have a prior sexual felony conviction, no matter how old. Currently all prisoners convicted of a sentence that exceeds 3 days earn a one-third deduction for good behavior.

This bill will have a fiscal impact on the operations of the Public Defender Agency. There may be litigation on whether this bill violates equal protection of the laws under the Alaska or United States Constitution. In the past, Alaska courts have found that laws singling out particular offenses (rather than classes of offenses) for disparate treatment violate equal protection. Also, it is likely that more cases will be contested and go to jury trial because of the increased sentences, and the elimination of good time awarded for second offenders, as proposed in this bill. If conviction results at trial, it is equally likely that there will be more appeals from those convictions. The Agency represented indigent defendants in over 20,000 cases in FY02, over 3600 of which were felonies. It is expected that the Agency's caseload will increase by approximately 1,000 cases for FY03, from the half yearly figures for FY03, also increasing the number of felonies for FY03 by approximately 100 cases. A noticeable number of the felony sexual offense charges involve indigent native defendants with substance abuse issues surrounding the alleged offense. Felony sex offenses are costly cases to defend at trial. With the increase in maximum allowable sentences, it is also likely that any suspended portion of the sentence will also increase, which may result in more contested adjudications on petitions to revoke probation proceedings, because of the potential to have a larger sentence imposed upon revocation. This will also likely increase the workload of the Agency.

The Agency cannot predict with any accuracy what the fiscal impact will be on the Agency if this bill becomes law, but is sure there will be one. Therefore, an indeterminate fiscal note is submitted.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 85
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to sentencing and to the earning BRU Criminal Division
of good time deductions for certain sexual offenses." Component All
Sponsor Senator French
Requester Senate State Affairs Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill increases the presumptive sentences and decreases the amount of good time that may be earned during imprisonment for persons convicted of certain felony sexual offenses.

Passage of this legislation is not anticipated to have a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division Attorney General's Office Date/Time 4/2/03 1:07 PM
Approved by: Kathryn Daughettee for Gregg D. Renkes, Attorney General Date 4/2/2003
Agency Department of Law



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Sex Offender Bill Receives Unanimous Bipartisan Support

Sen. Hollis French and Colleagues Take Stand to Protect Women and Children

JUNEAU – Repeat sex offenders would receive longer sentences under a bill introduced by Senator Hollis French (D-Anchorage). Senate Bill 85 passed out of the Senate State Affairs Committee yesterday with unanimous bipartisan support.

SB 85 aims to increase the penalties for repeat sex offenders. It also would make repeat sex offenders ineligible for the one-third “good time” reduction in prison sentences that most offenders can earn.

“Alaska ranks among the worst in the country in terms of reported rapes per capita, and has for years,” says Senator French. “I believe it is time to change that and to do something about this undistinguished – and shameful – rating. This law will provide additional protection for Alaska’s women and children, who are the most frequent victims of sexual crimes.”

SB 85 focuses on repeat sexual offenders, those who have been convicted of a prior sex offense, whether in Alaska or in the Lower 48, and who subsequently commit another sexual felony here in the Alaska. Research on sexual offenders has shown that they should be dealt with differently than other types of offenders. However, current sentencing law in Alaska treats all two-time felons the same. Prior felony convictions are given equal weight when an individual is sentenced on a new offense.

Take this example: an individual is convicted of sexual assault, and he has one prior felony conviction. The law as it stands treats that first conviction the same, whether it was a vehicle theft or a previous sexual assault.

“This is wrong,” says French, a former state prosecutor.

(MORE)

Putting Alaskans First • Moving Alaska Forward 2003

Sen. Bettye Davis, Sen. Johnny Ellis, Sen. Kim Elton, Sen. Lyman Hoffman, Sen. Hollis French, Sen. Gretchen Guess, Sen. Georgianna Lincoln,