

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11183 SENATE JUDICIARY





# WHY THE CHANGE?

## ≡ Citizen Demand / Public Safety

- ▶ Consider the following US Department of Justice statistics:
  - The average rapist commits 8-12 sexual assaults.
  - Of 108,580 persons released from prisons in 11 States in 1983, an estimated 62.5% were rearrested for a felony or serious misdemeanor within 3 years, 46.8% were reconvicted, and 41.4% returned to prison or jail.





# **BUT HOW DO WE PAY FOR IT?**

## **FEDERAL SOURCES**

- **DNA Backlog Elimination Act (HR 4640)**
  - ▶ \$170 Million authorized over 4 years, \$65 Million for 2002
  - ▶ Partially funded President's proposed budget, fully funded in "Sense of Senate" budget language.
  
- **National Forensic Science Improvement Act (S. 3045)**
  - ▶ aka, NFSIA or "Paul Coverdell" Act
  - ▶ Over \$450 Million over 6 years, \$85 Million for 2002.
  - ▶ Not funded in President's proposed budget, fully funded in "Sense of Senate" budget language.





## **BUT HOW DO WE PAY FOR IT?**

### **STATE SOURCES**

- Offender-pays requirements
- Funds earmarked for DNA analysis
  - ▶ *New York Governor Pataki commits \$11.8 million (backlog and new legislation).*
  - ▶ *California Governor Gray Davis commits \$5.5 million (backlog).*
  - ▶ *Florida Governor Bush commits \$2.1 million (burglaries).*

### **OTHER CONSIDERATIONS**

- Use of private labs for analysis --  
"outsourcing"

## **WHY SHOULD LEGISLATORS EXPAND OFFENDER DNA DATABASES?**

- **Catch Criminals** – Collecting DNA from all convicted felons, rather than only sex offenders and serious violent felons, would result in a staggering amount of additional crimes being solved. Statistics show that as many as half of all violent criminals have non-violent criminal prior convictions. *If a state takes DNA from violent offenders only, the likelihood of solving a particular rape or murder are reduced by 85%.*
- **Exonerate the Innocent** - Increasing the DNA database to include non-violent offenders will reduce the occurrence of innocent people who are wrongly suspected, arrested and convicted of crimes they did not commit. With strong DNA laws, law enforcement can use the DNA database to eliminate potential suspects before their lives are forever altered.
- **Protect Public Safety** - Solving a crime – and solving it quickly – has a direct effect on preventing additional crimes by the same perpetrator. An offender who is not apprehended in a timely manner remains free to commit more crimes. When considering that as *many as half* of all violent criminals have prior convictions for non-violent crimes, it becomes evident that expanding DNA databases to include all convicted felons would significantly decrease the number and frequency of rapes and other violent crimes.

***The proven worth of DNA databases:***

- ✓ In England, where DNA is collected from all felons and misdemeanants, the DNA database is used to solve over 700 crimes per week.
- ✓ Virginia's DNA database, the most mature all felons system in the country, averaged at least one "cold hit" per day in 2002. In one month of 2002, the Virginia database made 68 "cold hits."  
"Cold Hit" - when DNA from a crime scene is matched on the DNA database to a convicted offender's profile.
- ✓ "Approximately 85% of hits would have been missed if the databank were limited to only violent offenders."  
Paul Ferrara, Director, Virginia Division of Forensic Science.
- ✓ 52% of Florida offenders linked to sexual assaults and homicides by DNA matches have had prior burglary convictions (non violent offense).

***Congress begins to respond:***

- ✓ The federal DNA Backlog Elimination Act authorizes \$170 million in federal funding for state DNA programs. Congress is now considering increasing this amount to over \$300 million.

***State Legislatures begin to respond:***

- ✓ In 2002, 27 states introduced over 80 bills to expand the state offender DNA database to include more felons.
- ✓ Of these states, 20 introduced bills to expand the DNA database to include all convicted felons.

**FOR MORE INFORMATION, OR ASSISTANCE IN  
DRAFTING DNA DATABASE EXPANSION  
LEGISLATION FOR YOUR STATE, CONTACT:**

Tim Schellberg or Lisa Hurst  
253-627-1091  
tims@smithhallinglane.com  
lhurst@smithhallinglane.com

**OR VISIT:**  
<http://DNAresource.com>

 <b>NATIONAL CONFERENCE of STATE LEGISLATURES</b> <small>Advancing State Governance</small> <small>Internet Sites</small>		You are logged in <a href="#">Home</a> <a href="#">My NCSL</a> <a href="#">Contact/Ask NCSL</a> <a href="#">Search</a> <a href="#">Site map</a> <input type="button" value="+ MyNCSL"/>				
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Posted October 15, 2002



Criminal Justice Program

## NCSL LegisBrief

Briefing Papers On the Important Issues of the Day

### Fighting Crime with DNA

By Kelly Fox and Donna Lyons

October 2002

Volume 10, Number 42

DNA technology has become one of the most critical tools in solving crimes. And its application in criminal justice is advancing far more rapidly than any other forensic science.

### State Action

States are expanding their policies to use stored DNA samples to identify and eliminate suspects. Every state has enacted legislation to establish DNA databases and require collection of samples from sex offenders and other violent criminals. Twenty-two states have expanded that requirement to include collection from all convicted felons; seven did so this year. Thirty states currently require collection of a biological sample from certain juvenile offenders and some include people found not guilty by reason of mental illness or insanity.

**"Hits" on Unsolved Crimes.** State DNA databases, along with the National DNA Index System maintained by the FBI, are all part of a coordinated system of local, state and national databases known as the Combined DNA Index System. Originated as an FBI pilot project in 1990, it consists of a "forensic" index, containing DNA profiles from crime scene evidence. It also has an "offender" index, with DNA profiles of convicted offenders. By electronically comparing DNA profiles from those indexes, analysts often are able to obtain "hits" (or matches) between DNA found at crime scenes and DNA profiles of convicted offenders. Analysts also can link multiple, unsolved crimes to a single perpetrator by comparing profiles in the forensic database. More than 1,110 forensic "hits" and more than 2,350 offender "hits" had been reported to the FBI as of March 2002, demonstrating the power of DNA as a crime-fighting tool.

Three states have enacted laws to extend DNA sampling to specific arrestees. Louisiana passed the first such law in 1997, authorizing DNA testing of those arrested for sex offenses and other violent crimes. The state is still working to coordinate state and federal funding to increase the capacity and capability of its crime laboratory. A Texas law passed in 2001 allows collection of post-indictment DNA samples from those charged with certain sexual assaults and kidnapping. This past session, Virginia lawmakers approved a measure requiring a DNA sample from every person arrested for a violent felony. These laws also contain provisions for the destruction and removal of an offender's DNA profile from the database in the event of an acquittal or dismissal of charges. Although courts have upheld taking and storing genetic samples from convicted offenders, such policies applied to arrestees raise yet unanswered legal questions.

The capability of crime laboratories to analyze DNA often has lagged behind expansion of policies to collect samples. As a result, many states have significant backlogs. Crime labs also contain unanalyzed forensic evidence from unsolved crimes, which, if appropriately reviewed and analyzed, might now be solved through DNA databases.

### Federal Action

Congress enacted the DNA Analysis Backlog Elimination Act in 2001, which authorized the appropriation of \$170 million to crime laboratories for contracts with the private sector or in-house DNA analysis. By the end of this year, more than \$80 million will have been distributed to state crime laboratories through programs at the National Institute of Justice. Congress is currently considering new legislation to expand funding to states for DNA backlog reduction, as well as other legislation that would provide funds to help police departments analyze unprocessed evidence collected in rape and other cases with no suspects. These efforts, together with those at state and local levels, seek to eliminate backlogs, and maximize the potential of DNA as the criminal justice system's premier investigatory tool of the 21st century.

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#### States that require all felons to submit DNA sample for convicted offender databases (as of July 1, 2002)

Alabama  
Arizona  
Colorado  
Florida  
Georgia  
Iowa  
Illinois  
Kansas  
Maine  
Maryland  
Michigan  
Montana  
New Mexico

Oklahoma 1  
Oregon  
Tennessee  
Texas 2  
Virginia  
Utah  
Washington  
Wisconsin  
Wyoming

1 Law requires plan adding qualifying felonies incrementally with all felony offenses included by 2006.

2 Contingent upon federal funding.

Source: NCSL, 2002.

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### Selected References

Lyons, Donna. "Proof Positive." State Legislatures 27, no. 6 (June 2001): 10-17.

National Commission on the Future of DNA Evidence. What Every Law Enforcement Officer Should Know About DNA Evidence. BC 000614. Washington, D.C., 1999.

Steadman, Greg W. Survey of DNA Crime Laboratories, 2001. Washington, D.C.: Bureau of Justice Statistics, January 2002.

### Contacts for More Information

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(303) 364-7700  
blake.harrison@ncsl.org

The National Institute of Justice  
Investigative and Forensic Sciences Division  
[www.ojp.usdoj.gov/nij/scientech/invest.htm](http://www.ojp.usdoj.gov/nij/scientech/invest.htm)

National Commission on the Future of DNA Evidence  
[www.ojp.usdoj.gov/nij/dna/welcome](http://www.ojp.usdoj.gov/nij/dna/welcome)



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**STATE DNA DATABASE LAWS  
QUALIFYING OFFENSES  
(As of October 2002)**

STATE	Sex Crimes	Murder	All Violent Crimes	Burglary	Drug Crimes	All Felonies	Juveniles	Some Misdemeanors	Arrestees/Suspects	Jailed Offenders	Community Corrections	Retroactive Jail & Prison	Retroactive Probation & Parole
ALABAMA	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	
ALASKA	✓	✓	✓	✓			✓						
ARIZONA	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	
ARKANSAS	✓	✓	✓	✓			✓	✓		✓	✓	✓	
CALIFORNIA	✓	✓	✓	✓			✓		✓	✓	✓	✓	✓
COLORADO	✓	✓	✓	✓	✓	✓	✓						
CONNECTICUT	✓									✓	✓		
DELAWARE	✓	✓	✓	✓	✓	✓				✓	✓		
FLORIDA	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
GEORGIA	✓	✓	✓	✓	✓	✓	✓				✓		
HAWAII	✓	✓								✓	✓	✓	✓
IDAHO	✓	✓	✓				✓			✓	✓	✓	✓
ILLINOIS	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	
INDIANA	✓	✓	✓	✓						✓	✓	✓	
IOWA	✓	✓	✓	✓	✓	✓		✓		✓	✓		
KANSAS	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
KENTUCKY	✓	✓		✓			✓			✓	✓		
LOUISIANA	✓	✓					✓		✓	✓	✓	✓	
MAINE	✓	✓	✓	✓	✓	✓		✓		✓		✓	
MARYLAND	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	
MASSACHUSETTS	✓	✓	✓	✓			✓			✓	✓		

STATE	Sex Crimes	Murder	All Violent Crimes	Burglary	Drug Crimes	All Felons	Juveniles	Some Misdemeanors	Arrestees / Suspects	Jailed Offenders	Community Corrections	Retroactive Jail & Prison	Retroactive Probation & Parole
MICHIGAN	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	
MINNESOTA	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		
MISSISSIPPI	✓									✓	✓	✓	
MISSOURI	✓	✓								✓	✓	✓	✓
MONTANA	✓	✓	✓	✓	✓	✓	✓			✓	✓		
NEBRASKA	✓	✓	✓							✓	✓		
NEVADA	✓	✓	✓	✓	✓			✓		✓	✓		
NEW HAMPSHIRE	✓	✓	✓	✓			✓			✓	✓	✓	✓
NEW JERSEY	✓	✓	✓				✓			✓	✓	✓	
NEW MEXICO	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
NEW YORK	✓	✓	✓	✓	✓					✓	✓		
NORTH CAROLINA	✓	✓	✓							✓	✓	✓	
NORTH DAKOTA	✓	✓	✓							✓	✓	✓	
OHIO	✓	✓	✓	✓			✓	✓		✓	✓	✓	✓
OKLAHOMA	✓	✓	✓	✓						✓	✓	✓	
OREGON	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
PENNSYLVANIA	✓	✓	✓	✓			✓	✓		✓	✓	✓	
RHODE ISLAND	✓	✓	✓	✓	✓					✓	✓		
SOUTH CAROLINA	✓	✓	✓	✓	✓		✓			✓	✓	✓	✓
SOUTH DAKOTA	✓	✓	✓	✓						✓	✓	✓	✓
TENNESSEE	✓	✓	✓	✓	✓	✓	✓			✓	✓		
TEXAS	✓	✓	✓	✓	✓	✓	✓		✓				
UTAH	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓

STATE	Sex Crimes	Murder	All Violent Crimes	Burglary	Drug Crimes	All Felons	Juveniles	Some Misdemeanors	Arrestees / Suspects	Jailed Offenders	Community Corrections	Retroactive Jail & Prison	Retroactive Probation & Parole
VERMONT	✓	✓	✓	✓				✓		✓	✓	✓	✓
VIRGINIA	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
WASHINGTON	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	
WEST VIRGINIA	✓	✓	✓	✓	✓			✓		✓	✓		
WISCONSIN	✓	✓	✓	✓	✓	✓	✓			✓	✓		
WYOMING	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
<b>TOTALS</b>	<b>50</b>	<b>48</b>	<b>44</b>	<b>41</b>	<b>28</b>	<b>23</b>	<b>30</b>	<b>22</b>	<b>4</b>	<b>46</b>	<b>46</b>	<b>31</b>	<b>17</b>

# OPINION

COMPASS: *Points of view from the community*

## DNA law aims to boost safety

By REP. TOM ANDERSON

Alaska has the highest percentage of reported rapes per capita in the United States and has held this ranking for 19 of the last 26 years. Anchorage currently ranks fifth out of 274 metropolitan areas of reported rapes, half of which are reported by Alaska Natives.

These statistics speak for themselves, and they are very alarming. As a legislator, I feel it is my duty to help protect the most vulnerable in the state and to increase the level of safety that all residents experience here.

Along with Rep. Mike Hawker, I am sponsoring House Bill 49, which expands the DNA testing of convicted criminals. Under current state law, only those felons convicted of crimes against a person, burglary and felony attempt to commit burglary after Jan. 1, 1996, are required to submit their DNA into the state database.

If passed, HB 49 will broaden this law so that all people, including adjudicated juveniles, convicted of felonies, crimes against a person or sexual misdemeanors; those who are required to register as sex offenders; and those currently incarcerated or on parole for these crimes will have their DNA entered into the statewide database.

DNA testing, usually done through a simple mouth swab, is the fingerprinting of the 21st century. Through DNA analysis of blood, hair, fingernails or skin left at crime scenes, investigators are able to connect perpetrators with their past crimes or to exonerate those who are falsely accused.

Currently, 24 states require all felons to submit DNA samples. To that end, collecting DNA from a larger pool will increase the number of violent crimes solved.

DNA has been collected from crime scenes and stored for decades, but without



*Through DNA analysis of blood, hair, fingernails or skin left at crime scenes, investigators are able to connect perpetrators with their past crimes or to exonerate those who are falsely accused.*

the matching profile, cases remain unsolved, and the victims and their families never experience closure or justice.

Collecting DNA also helps prevent future crimes. An offender who is not caught quickly remains free to commit more crimes. This is a downward spiral, and we now have the tools at hand to catch these criminals at the commission of another violent crime or for a nonviolent offense.

One of the most important benefits of increasing the DNA database to include nonviolent felonies is the drop in number of innocent people wrongly suspected, arrested and convicted for someone else's crime. HB 49 works to protect the innocent when both the accused and the offender's profiles are in the database.

Within months last year in Santa Clara County, Calif., three men convicted of serious offenses were freed. Additionally, since 1989, DNA tests have cleared 73 people, eight of whom were on death row and had exhausted their appeals. The DNA database saves lives. The innocent will no longer be at the mercy of mistaken eyewitnesses, hearsay or other circumstances.

Expanding the DNA database is also cost-efficient. Securing DNA profiles saves prosecution time by eliminating suspects. Profiles offer solid proof to the courts, and

felons who must offer their DNA may not be as likely to re-offend.

HB 49 also increases the penalty for misuse of the database by emphasizing the importance of confidentiality of the DNA records and samples. Those who disclose, use or tamper (or attempt to tamper) with such records and samples without authorization will be penalized.

Many of my colleagues and I ran on a platform that supported improving public safety. HB 49 is a fulfillment of that promise. Not only will this legislation help increase the efficiency and production of law enforcement, it will help save money in the long term by preventing possible future crimes.

For the protection of our mothers, sisters, wives and daughters and our communities, please support this important crime-fighting legislation. To testify at a hearing, to provide written support, or to track the progress of HB 49 through the legislative process online, visit our Web site, [www.akrepublicans.org](http://www.akrepublicans.org).

■ State Rep. Tom Anderson, R-Anchorage, is a lifelong resident of District 19. He is chairman of the House Labor & Commerce Committee, vice chairman of the House Judiciary Committee and a member of the Finance Subcommittees on Public Safety and Corrections.

HB

52

# Alaska State Legislature

*Session:*  
State Capitol  
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716 W 4<sup>th</sup> Avenue, Suite 300  
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## Representative Lesil McGuire

Chair, Judiciary Committee

### MEMORANDUM

To: Sen. Ralph Seekins, Chair –Senate Judiciary Committee

From: Rep. Lesil McGuire

Date: April 8<sup>th</sup>, 2003

Re: Request for hearing of HB 52 “Computer forfeiture for sex crimes”

I would appreciate it if you would consider scheduling my bill, Senate Committee Substitute for CSHB 52 (STA) “An Act relating to the forfeiture of property used to possess or distribute child pornography” before your committee at your earliest possible convenience. As a note this bill will come to you with a conceptual amendment offered by Sen. Dyson and a concurrent resolution offering a title change as a result of his amendments offered in the Senate State Affairs Committee

Attached you will find a the most recent available version of the bill, my sponsor statement, a sectional analysis, fiscal notes, letters of support, and a copy of compelling personal testimony that was offered in both the House State Affairs and Judiciary Committees.

Per a conversation between my staff member, Heath Hilyard, and your staff member Brian Hove it appears that you may have the ability to hear this bill during the week of April 21<sup>st</sup>. I would certainly appreciate such consideration.

I appreciate your consideration.

# Alaska State Legislature

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## Representative Lesil McGuire

Chair, Judiciary Committee

### SCS CSHB 52 (STA)

"An Act relating to the crime of distribution of child pornography and to the forfeiture of property used to possess or distribute child pornography, to commit indecent viewing or photography, to commit a sex offense, or to solicit the commission of, attempt to commit, or conspire to commit possession or distribution of child pornography, indecent viewing or photography, or a sexual offense."

### Sponsor Statement

This most recent version of HB 52 is an amalgamation of the original version and Sen. Dyson's SB 96 "An Act relating to Child Pornography." The inclusion of Sen. Dyson's bill was done at his request and assistance during the April 10<sup>th</sup> Senate State Affairs Committee hearing. The inclusion of this language strengthens HB 52 by expanding Alaska's child pornography statutes to include businesses that provide billing services to Internet child pornography distributors. This sends a clear message that Alaska is not open for business to Internet pedophiles or those unscrupulous profiteers who provide ancillary business services that perpetuate such criminal enterprises.

While providing instant access to useful and valuable information for business and academic research, the expansion of the Internet and corresponding development of computer technology have also created an environment in which new types of criminal enterprise are flourishing. Perhaps the most pernicious and predatory are the ever-increasing crimes against children.

It is becoming far more common for pedophiles to seek new victims through on-line chatrooms and email and for child pornography profiteers to use these technologies as a means to distribute their materials. HB 52 will provide the state courts and law enforcement agencies another tool to combat these sexual predators by giving the courts additional punitive sentencing options and, in turn, awarding forfeited computer technology back to law enforcement agencies for ongoing monitoring operations.

HB 52 will make it possible for law enforcement to stay on top of this rapidly changing industry without spending more government dollars. Advances in technology seem to happen on an almost daily basis, and new technology can frequently outperform previous models. This creates greater restrictions for police detection and monitoring operations thus leaving them at a disadvantage. In order for law enforcement to effectively combat computer crime, they must have access to the necessary hardware.

There are forfeiture laws in place across the country and at the federal level. Several other states already have similar laws on the books relating to the forfeiture of computers used in sex crimes. The use of computers in the commission of sex crimes is a national problem, and Alaska can look toward other states' laws in this area to draw realistic conclusions about the likely impact here in our own state.

HB 52 will amend AS 11.41 and AS 11.61, respectively, by adding the necessary statutory language for the forfeiture of hardware used either in a sexual offense or in indecent viewing or photography or child pornography and adding language that includes "billing collection, or other ancillary services for or otherwise supporting these activities."

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**Representative Lesil McGuire**  
Chair, Judiciary Committee

## House Bill 52

**“An Act relating to the forfeiture of property used to possess or distribute child pornography”**

### Sponsor Statement and Sectional Analysis

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# Sponsor Statement

## SB 96

### "An Act relating to Child Pornography"

*Updated: March 27, 2003*

*Contact: Senator Fred Dyson's office at (907) 465-2199*

SB 96 is preventative and not targeted at any known activity in Alaska. It is meant to ensure that we do not have a legal climate that would attract business that provide billing services on behalf of "fee-based" child porn web sites.

It is physically possible for any person with a computer and average computer skills can create a website and show any picture they want to post on that site; from anywhere there is a telephone connection; at almost no cost. Unscrupulous opportunists, who do not care about children, post degrading pictures of them and skim profits by luring pedophiles to make credit card purchases of viewing time. It takes much less capital to put up an illegal and exploitive site than it does to create the billing scheme.

SB 96 bans ancillary services for "fee-based" child porn sites by making such activity a class B felony allowing up to \$100,000 fine and 10 years in prison. It is already a felony to put child pornography on the web in Alaska, but unless we enact this bill, it would be legitimate to provide billing services for the owners of these sites that might be based in an off-shore boat or another country or even quietly and illegally right here under our noses. Our current law invites "unholy alliances" between pornography providers and what can appear to be a legitimate business.

Recently the State of Michigan discovered six of these companies and issued cease and desist orders on them; BillCards, CardBilling, Ccbill, LancelotSecurity, iBill, and Trust-Bill. All of these companies are still functioning from other locations. If you have any doubts, take the time to do some internet searches on them and, just looking at titles, you will see we are up against. SB 96 needs to be enacted without delay to preclude this damaging practice in Alaska.

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## Representative Lesil McGuire

Chair, Judiciary Committee

### HB 52 – Sectional Analysis

**Section 1.** Provides legislative intent that in cases where the owner of the forfeited property is innocent of the crime, their property is returned to them following existing procedure and as the courts deem reasonable.

**Section 2.** Adds a new section that authorizes forfeiture of property, specifically electronic equipment as defined in the section, used to aid in the commission of a sexual offense under AS 11.41.410 – 11.41.458 including inchoate forms of those sexual offenses.

**Section 3.** Amends AS 11.61.125(d) to expand the definition of distribution of child pornography to include “providing billing collection, or other ancillary services for or otherwise supporting these activities.”

**Section 4.** Adds a new section that authorizes forfeiture of property, specifically electronic equipment as defined in the section, used to aid in the commission of indecent photography or child pornography under AS 11.61.123 – 11.61.127 including inchoate forms of those offenses.

**Section 5.** Applies changes to the definition of distribution on or after the effective date of this Act.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: SCS CSHB 52  
 (S) Publish Date: 4/16/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act relating to distribution and forfeiture of property used in sexual offense BRU Legal and Advocacy Services  
 Component Public Defender Agency  
 Sponsor Rep. McGuire  
 Requester (S) STA 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (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 bill would have some effect on Agency operations, simply because if the state requests forfeiture, it will make the sentencing more complicated in some cases. However, we do not anticipate much of an impact.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416  
 Division Public Defender Agency Date/Time 4/10/03 11:17 AM  
 Approved by: Mike Miller, Commissioner Date 4/10/2003  
 Agency Department of Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: SCS CSHB 52 (STA)  
 (S) Publish Date: 4/16/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title An Act relating to the crime of BRU Alaska State Troopers  
distribution of child.... Component AST Detachments  
 Sponsor Representative McGuire  
 Requester Senate Judiciary Component No. 2325

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

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

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

Estimate of any current year (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 bill folds SB 96 into HB 52. Neither original bill had any fiscal impact, nor does this Senate CS.

Prepared by: Lieutenant Matthew Leveque Phone 907 269-0390  
 Division Alaska State Troopers Date/Time 4/16/03 10:01 AM  
 Approved by: William Tandeske, Commissioner Date \_\_\_\_\_  
 Agency Department of Public Safety



George P. Wuerch,  
Mayor

# Municipality of Anchorage

Anchorage Police Department

Walt Monegan, Chief

Anchorage



2002

February 6, 2003

Representative Lesil McGuire, Chair  
House Judiciary Committee  
716 W. 4<sup>th</sup> Avenue, Suite 300  
Anchorage, AK 99501-2133

Dear Representative McGuire:

This letter is written in support of HB 52, *An Act relating to the forfeiture of property used to possess or distribute child pornography, to commit indecent viewing or photography, to commit a sex offense, or to solicit the commission of, attempt to commit, or conspire to commit possession or distribution of child pornography, indecent viewing or photography, or a sexual offense.*

Law enforcement agencies are often required to return equipment used in these crimes to the perpetrator or to another person whom the perpetrator has designated. Many of these items have been specially designed or adapted for no other purpose than to commit specific criminal acts. This equipment is generally costly and sometimes hard to obtain.

We feel it is necessary and appropriate to deprive those convicted of sexual crimes of the means to commit them again or allow others to use them for the same purpose. We therefore offer our support for House Bill 52. Thank you for bringing this legislation forward.

Sincerely,

A handwritten signature in black ink, appearing to read "William Miller".

William Miller  
Deputy Chief

## ALASKA PEACE OFFICERS ASSOCIATION

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

**Business Manager**Joseph Young  
Anchorage**Board of Directors**Leo Brandlen, President  
AnchorageAngella Long, Vice President  
WasillaMichael Corkill, Past President  
Mesa, AZKim Wannamaker, Member  
Kenai  
Pres. Kenai ChapterTerry Games, Member  
Anchorage  
Anchorage ChapterLinda Calkin, Member  
Palmer  
Pres. Mat-Su ChapterLonnie Hatman, Member  
Fairbanks  
Pres. Farthest North ChapterJerry Nankervis, Member  
Juneau  
Pres. Capital City ChapterAndrea Jacobson, Member  
Ketchikan  
Pres. First City ChapterJames See, Member  
Craig  
Pres. Prince of Wales ChapterJohn Lucking, Jr., Member  
Unalaska  
Pres. Aleutian Islands ChapterJeff Odom, Member  
Wrangell  
Pres. Wrangell Chapter

March 17, 2003

Representative Lesil McGuire  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative McGuire;

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for co-introducing House Bill No. 52, an act relating to sex crime and pornography forfeiture.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

As you are aware, those convicted of child pornography, and other sexual offenses, all too often possess state of the art computers, video and photographic equipment. Far better equipment than most law enforcement agencies utilize while attempting to identify and arrest suspects of these particular types of crime. Your proposed forfeiture of such equipment could greatly aid local and state law enforcement in their further pursuit of these sexual offenders. We believe that this proposed legislation will be of benefit to both the citizens and law enforcement of Alaska.

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

Sincerely,

Leo J. Brandlen  
State President

# House Bill 52

Stello,

My name is Janet Brown. I'm co-founder of a group called P.O.P. I'm a mom whose life has been affected by a sexual predator. My daughter was raped by her father... my husband.

During the investigation there was a variety of electronic evidence...

- 1) Video tapes of children while they slept showing their private areas
- 2) Video tapes of an unconscious victim being sexually assaulted & raped
- 3) A voyeur type video taken in my home of a family member taking a shower
- 4) Audio cassettes of a sexual assault
- 5) Pictures of unknown females... no faces just body parts
- 6) Scanned pictures with enlarged body parts & reprinted over 160 times

This evidence was documented back 20 years.

the Computer & Video Camera  
ALONG WITH A 35mm CAMERA played  
A big part in fulfilling this predators  
fantasies. To return these items  
to him upon <sup>his</sup> release from jail would  
surely be a catastrophe. Being in  
denial that he has a problem &  
with access to these items will  
definitely guarantee a new victim.  
The return of any of these (condiscarded)  
ITEMS needs to be denied.

So I'm asking you for my  
daughter and any future victims to  
support H.B.#52. Give these  
Sexual Predators one less avenue  
to having access to our children  
"Put ~~their~~ rights of our  
children first. ... <sup>no deep as well as thought</sup> making their  
lives safer & more secure  
~~thereby putting the needs~~  
of our child.

Thank you

**HB**

**56**

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

## MEMORANDUM

DATE: April 2, 2004

TO: Senator Ralph Seekins  
Chariman, Senate Judiciary Committee

FROM: Rep. Gara

RE: Hearing for HB 56

---

I am requesting that HB 56, "Consumer Attorney's Fees for State" be scheduled for hearing in the Senate Judiciary Committee at your earliest convenience.

Included are copies of HB 56 and CSHB56(L&C), a sponsor's statement, sectional analysis, fiscal notes, a statement describing the difference between the original and CS, and two letters of support.

Thank you.

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

## SPONSOR STATEMENT

### **HB 56: Making State's Fight Against Consumer Fraud More Effective; And More Cost Effective.**

This bill provides the state with a needed tool to fight consumer fraud more effectively, more efficiently, and without any cost to the state. This bill strengthens the state's ability to represent Alaskans who have been victimized by fraudulent business practices, whether by used car dealers, telemarketers, or others who prey on Alaska's consumers. It does so while actually saving the state money. Senator Fred Dyson and I have worked on similar cost-effective consumer protection measures in the past, and will join hands to advance this proposal in our respective legislative houses.

Currently victims of consumer fraud can contact the State's Attorney General's Office for help. However, due to budget constraints, the State cannot help many such victims. In 2001 roughly half of all Alaskans who complained of consumer law violations were turned away due to budget constraints.

HB 56 changes the law to allow the state to recover its full enforcement, investigation and court costs if it prevails against a party that has violated Alaska's consumer protection laws. The bill is modeled after legislation in other areas that allow state and federal investigators and enforcement authorities to recover their enforcement costs. For example, federal anti-trust, and federal and state hazardous waste laws allow the recovery of enforcement costs and full attorneys fees from parties who violate the law.

The public policies behind this bill are simple: Those who engage in unfair business practices should not force the state to bear the costs of their misconduct. Moreover, by allowing the state to recover not only the existing penalties that are available under state law, but its enforcement costs, the law will help fund a more vibrant, more cost-effective consumer protection presence in Alaska.

Current law prevents the state from recovering many types of investigative and enforcement costs, and allows the state to recover only 20% of its attorney fee costs. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Les Gara", with a horizontal line extending to the right.

Les Gara

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

## Differences Between HB 56 and CSHB 56(L&C)

### **There is one change:**

The original bill did not include a statement that this bill involves a court rule change.

Since that version was introduced, however, it has been made clear that, indeed, the Act would substantively change Court Rules 54(d), 79 and 82 of the Alaska Rules of Civil Procedure. The proposed CSHB 56 takes this into account and incorporates the court rule changes (Sec. 2., starting page 1, line 10 of proposed CS).

The bill now states a 2/3 vote is required because a court rule change is involved.

As a result, Sec. 4 of the original bill, the EFFECT NOTWITHSTANDING VOTE clause, is no longer necessary and has also been removed.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 56(L&C)  
 (H) Publish Date: 4/28/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title: "An Act relating to the attorney fees and costs awarded in certain court actions . . ." BRU: Civil Division  
 Sponsor: Representative Gara Component: Fair Business Practices  
 Requester: House Labor and Commerce Committee 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (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)  
 HB 56 allows the attorney general to recover full reasonable attorneys fees and costs when the state prevails in an action brought under Alaska's Consumer Protection Act, AS 45.50.471 *et seq.* Currently, private parties who bring successful actions under the Act can recover full fees and costs, but the state can only recover a portion of its fees pursuant to Alaska Civil Rule 82 for bringing the same action. It is unclear how much, if any, additional revenues might result if this bill passes. Presently, most actions brought by the attorney general under the Act are settled, and the settlement often considers the time and expenses incurred by the attorney general to bring the action. In larger multi-state cases, settlements often include payment of attorneys fees and costs. In smaller, local cases, however, potential violators may be deterred by the risk of paying the state's full attorneys fees and costs. In cases where litigation is inevitable, this bill would allow the recovery of additional funds, and may assist in settlement negotiations.

Prepared by: Joan M. Kasson Phone (907) 465-5370  
 Division: Attorney General's Office Date/Time 4/21/03 4:17 PM  
 Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General Date 4/21/2003  
 Agency: Department of Law

# 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

March 7, 2003

**SUBJECT:** CSHB 56( ) relating to attorney fees and costs awarded in unfair trade actions (Work Order No. 23-LS0300\H)

**TO:** Representative Les Gara  
Attn: Ryan

**FROM:**  Theresa L. Bannister  
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.

**Section 1.** Provides that in an unfair trade practice action the state shall be awarded its actual reasonable attorney fees and costs, including investigation costs, if the state wins the case.

**Section 2.** Explains how sec. 1 indirectly causes changes in Rules 54(d), 79, and 82 of the court's rules of civil procedure.

**Section 3.** Applies sec. 1 to causes of action that accrue on or after the effective date of this Act.

If I may be of further assistance, please advise.

TLB:med  
03-272.med

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

## Sectional Analysis: HB 56

This bill provides the state with a needed tool to fight consumer fraud more effectively, more efficiently, and without any cost to the state. This bill strengthens the state's ability to represent Alaskans who have been victimized by fraudulent business practices, whether by dishonest used car dealers, telemarketers, or others who prey on Alaska's consumers. It does so while actually saving the state money.

HB 56 changes the law to allow the state to recover its full enforcement, investigation and court costs if it prevails against a party that has violated Alaska's consumer protection laws. The bill is modeled after legislation in other areas that allows the state to recover its enforcement costs. For example, federal anti-trust, and federal and state hazardous waste laws allow the state to recover its enforcement costs from parties who violate the law.

**Section 1:** Currently the state is entitled to only partial compensation for its enforcement efforts when it prevails in a case under Alaska's consumer protection law, the Unfair Trade Practices Act. This section changes the law to entitle the state, if it prevails in such a case, to receive full compensation for its enforcement efforts on behalf of a victim. Under this section, a court may award full compensation to the state for its attorneys fees and investigation and other enforcement costs. The state would have to prove that these costs were reasonable.

**Section 2:** This notice is required when the Legislature changes existing court rules on attorney's fees and costs.

**Section 3:** Provides for a standard effective date, and that the new law only applies to new cases that arise because of conduct that occurs after this law is enacted.



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

March 27, 2003

RE: HB 56 (Gara)-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 HB 56, authored by Representative Les Gara.

This bill will allow the State of Alaska to recover all costs involved in the prosecution of an entity that violates the State's consumer protection laws. We fully agree with Representative Gara that the State should not bear the costs for someone who conducts business illegally here. Many AARP members are the victims of consumer fraud. We know many more would be able to secure the professional assistance of the Attorney General's office if more funding was available. HB 56 is an ideal way to provide that funding.

AARP urges an "AYE" vote on HB 56.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capitol City Task Force; Patrick Luby

3501 C Street, Suite 1420 | Anchorage, AK 99503 | 907-341-2277 | 907-341-2270 fax | 1-877-434-7598 TTY  
James G. Parkel, President | William D. Novelli, Executive Director and CEO | [www.aarp.org](http://www.aarp.org)

(907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Sincerely,

*Marguerite Stetson*

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](mailto:ffmas@aurora.uaf.edu)

cc: Vice-Chair Bob Lynn  
Representative Nancy Dahlstrom  
Representative Carl Gatto  
Representative Norman Rokeberg  
Representative Harry Crawford  
Representative David Guttenberg  
Representative Les Gara  
Marie Darlin  
Patrick Luby



# AKPIRG

ALASKA PUBLIC INTEREST RESEARCH GROUP

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

## Statement in Support of HB 56

**HB 56 deserves a prompt hearing because of its value to Alaskan consumers and the Attorney General's office.**

HB 56 bolsters the State of Alaska's ability to fight consumer fraud. With the proliferation of both phone and internet solicitations and Alaskan's reliance on such commercial mechanisms, fraudulent businesses have ever-increasing avenues to engage in illegal business practices. Identity theft has risen to become the most prevalent form of fraud reported to the Department of Law. Yet, in 2001 around half of all Alaskans who complained about consumer law violations couldn't get help from the state due to a lack of funding. This bill makes bad businesses pay for their violations

HB 56 gives the state another method to fight consumer fraud without expense to the state. Through this legislation, the state will be able to represent Alaskans who have been wronged by fraudulent business practices. While doing this, the law will also allow the state to recover its full court costs if it prevails against a party that has violated Alaska's consumer protection laws. Current law prevents the state from recovering many types of investigative and enforcement costs, and allows the state to recover only 20% of its attorney fee costs. Just as businesses must purchase a license to operate in Alaska, those businesses that break Alaska laws should be held responsible for the costs they rack up in Alaska courts.

HB 56 is patterned after legislation, both state and federal, which allows the recovery of enforcement costs. Federal anti-trust laws, and federal and state hazardous waste laws allow the state to recover its enforcement costs from parties who violate the law.

Currently, Alaska is entitled to only partial compensation for its enforcement efforts when it prevails in a case under the Unfair Trade Practices Act. HB 56 changes the law to entitle the state to receive full compensation for its investigation and enforcement efforts on behalf of a victim, if it prevails in such a case. The state would have to prove that these costs were reasonable.

AkPIRG urges quick passage of HB 56.

HB

64

# Alaska House of Representatives

Richard Foster  
P.O. Box 1630  
Nome, AK 99762  
907-443-5036  
Fax 907-443-2162



During Session  
State Capitol Rm. 410  
Juneau, AK 99801-1182  
907-465-3789  
Fax 907-465-3242

**Majority Whip**

**House Bill 64**

**“An Act relating to court approval of the purchase of structured settlements.”**

## **Sponsor's Statement**

House Bill 64 was introduced to address a concern brought forward by some of the states trial lawyers.

Apparently firms have been contacting the recipients of structured settlements and offering to buy those settlements for a small portion of their value. When a person living in a village is contacted, they may not fully understand the implications of the purchase and realize what they are giving up in terms of long-term benefit versus a quick cash payoff.

This act would allow the reassignment of a structured settlement only after it had been approved by the courts and outlines the considerations that must be made before such a transfer is approved.

The specific provisions of the bill are outlined in the analyses provided by Legislative Legal Services.

# Alaska House of Representatives

Richard Foster  
P.O. Box 1630  
Nome, AK 99762  
907-443-5036  
Fax 907-443-2162



During Session  
State Capitol Rm. 410  
Juneau, AK 99801-1182  
907-465-3789  
Fax 907-465-3242

## Majority Whip

To: Representative Norman Rokeberg  
Chair House Rules  
From: Rep. Richard Foster  
Date: March 11, 2003  
Re: CSHB 64

There are no major changes in the current bill. From the original text the to CSHB64 (STA) there was a clarification of jurisdiction on page 3 line 20 (at the request of the AK state courts). From CSHB64 (STA) to CSHB64 (JUD) there was a time extension affecting page 3 line 24, an addition applying to the orders of any court on page 1 line 14, and a clarification with regards to delivery/receipt on page 2 lines 1 and 2.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 64(STA)  
 (H) Publish Date: 2/24/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Purchase of Structured Settlements BRU Banking, Securities & Corporations (115)  
 Component Banking, Securities & Corporations  
 Sponsor Representative Foster  
 Requester House State Affairs 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (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)

The proposed legislation would regulate the purchase of structured settlements. This legislation does not impact the operations of this division.

Prepared by: Terry Lutz, Acting Director  
 Division: Banking, Securities & Corporations  
 Approved by: Edgar Blatchford, Commissioner  
 Agency: Department of Community & Economic Development

Phone 907-465-2521  
 Date/Time 2/10/03 2:35 PM  
 Date 2/10/2003

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 64(JUD)  
(H) Publish Date: 3/10/2003

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title Structured Settlements BRU Alaska Court System  
Sponsor Representative Foster Component Trial Courts  
Requester House Judiciary Component No. 768

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

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

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

Estimate of any current year (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)

The Alaska Court System does not anticipate any fiscal impact by the passage of HB 64.

Prepared by: Doug Wooliver, Administrative Attorney Phone \_\_\_\_\_  
Division: Alaska Court System Date/Time 3/10/03 10:53 AM  
Approved by: Stephanie Cole, Administrative Director Date 3/10/2003  
Agency: Alaska Court System

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSHB 64(JUD)  
(H) Publish Date: 3/10/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
Title: Purchase of Structured Settlements BRU: Workers' Compensation  
Sponsor: Representative Foster Component: Workers' Compensation  
Requester: House JUD Component Number: 344

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

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

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

Estimate of any current year (FY2003) cost: None

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 will require workers compensation claimants who are receiving benefits through periodic payments either through a standard claim or a structured settlement, make an application to the court for approval of transfer of these payments. The Division of Workers' Compensation does not anticipate a fiscal impact as a result of this bill.

Prepared by: Paul Grossi, Director Phone: 465-2790  
Division: Workers' Compensation Date/Time: 2/27/03 10:11 AM  
Approved by: Greg O'Claray, Commissioner Date: 02/27/03  
Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

# LEGAL SERVICES

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FAX (907) 465-2029  
Mall Stop 3101

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

## MEMORANDUM

January 28, 2003

**SUBJECT:** Sectional Summary of HB 64  
**TO:** Representative Richard Foster  
**FROM:** Gerald P. Luckhaupt *JERRY*  
Legislative Counsel

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

Section 1 of the bill creates AS 09.68.200 which provides that structured settlements may not be transferred without court approval of the transfer. The court may not approve a transfer unless

- the structured settlement arose from an action filed in Alaska or which could have been filed in Alaska or the payee of the structured settlement is domiciled in Alaska;
- the transfer complies with state and federal law;
- the transferee has provided a disclosure statement to the payee as required by proposed AS 09.68.200(a)(3);
- the transfer is in the best interests of the payee and the payee's dependents;
- the payee has received independent professional advice regarding the transfer;
- notice has been provided to the payer (the annuity issuer and obligor);
- choice of law forum that complies with proposed AS 09.68.200(a)(7) is included in the transfer agreement;
- transferee must indemnify the annuity issuer and obligor for all liability and costs.

Creates AS 09.68.210 which provides the procedure for approval of a transfer of a structured settlement.

Creates AS 09.68.220 which provides that the provisions of AS 09.68.200 - 09.68.230 may not be waived nor may a penalty be charged the payee if the proposed transfer does not meet the requirements of AS 09.68.200 - 09.68.230.

Creates AS 09.68.230 which provides definitions.

GPL:med  
03-067.med

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 1
To <i>Judy</i>	From <i>Paul LaBolle</i>	
Co. <i>/</i>	Co.	
Dept.	Phone # <i>907-465-3789</i>	
Fax # <i>907-586-1987</i>	Fax # <i>907-465-3242</i>	

49 USC 40101  
note.

~~“(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term ‘airline-related deposit’ means any deposit of taxes imposed by subchapter 501 of chapter 33 of such Code (relating to transportation by air).”~~

~~(b) EFFECTIVE DATE.—An amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107-42).~~

~~SEC. 115. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS.~~

~~(A) IN GENERAL.—Subtitle E is amended by adding at the end the following new chapter:~~

~~“CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS~~

~~“Sec. 5891. Structured settlement factoring transactions.~~

~~“SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.~~

~~“(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.~~

~~“(b) EXCEPTION FOR CERTAIN APPROVED TRANSACTIONS.—~~

~~“(1) IN GENERAL.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.~~

~~“(2) QUALIFIED ORDER.—For purposes of this section, the term ‘qualified order’ means a final order, judgment, or decree which—~~

~~“(A) finds that the transfer described in paragraph (1)—~~

~~“(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and~~

~~“(ii) is in the best interest of the payee, taking into account the welfare and support of the payee’s dependents, and~~

~~“(B) is issued—~~

~~“(i) under the authority of an applicable State statute by an applicable State court, or~~

~~“(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.~~

~~“(3) APPLICABLE STATE STATUTE.—For purposes of this section, the term ‘applicable State statute’ means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—~~

~~“(A) the State in which the payee of the structured settlement is domiciled, or~~

~~“(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding~~

asset for the structured settlement is domiciled or has its principal place of business.

"(4) APPLICABLE STATE COURT.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable State court' means, with respect to any applicable State statute, a court of the State which enacted such statute.

"(B) SPECIAL RULE.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

"(5) QUALIFIED ORDER DISPOSITIVE.—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

"(c) DEFINITIONS.—For purposes of this section—

"(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

"(A) which is established by—

"(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

"(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

"(B) under which the periodic payments are—

"(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

"(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

"(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

"(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—

"(A) IN GENERAL.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

"(B) EXCEPTION.—Such term shall not include—

"(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

"(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

"(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

“(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

“(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

“(5) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term ‘responsible administrative authority’ means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

“(6) STATE.—The term ‘State’ includes the Commonwealth of Puerto Rico and any possession of the United States.

“(d) COORDINATION WITH OTHER PROVISIONS.—

“(1) IN GENERAL.—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

“(2) NO WITHHOLDING OF TAX.—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.”.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end the following new item:

“Chapter 55. Structured settlement factoring transactions.”.

(c) EFFECTIVE DATES.—

Applicability.

(1) IN GENERAL.—The amendments made by this section (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

Applicability.

(2) CLARIFICATION OF EXISTING LAW.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into before, on, or after such 30th day.

(3) TRANSITION RULE.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

- (i) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority); and
  - (ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee; and
- (B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

**SEC. 116. PERSONAL EXEMPTION DEDUCTION FOR CERTAIN DISABILITY TRUSTS.**

(a) **IN GENERAL.**—Subsection (b) of section 642 (relating to deduction for personal exemption) is amended to read as follows: 26 USC 642

“(b) **DEDUCTION FOR PERSONAL EXEMPTION.**—

“(1) **ESTATES.**—An estate shall be allowed a deduction of \$600.

“(2) **TRUSTS.**—

“(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of \$100.

“(B) **TRUSTS DISTRIBUTING INCOME CURRENTLY.**—A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of \$300.

“(C) **DISABILITY TRUSTS.**—

“(i) **IN GENERAL.**—A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d), determined—

“(I) by treating such trust as an individual described in section 151(d)(3)(C)(iii), and

“(II) by applying section 67(e) (without the reference to section 642(b)) for purposes of determining the adjusted gross income of the trust.

“(ii) **QUALIFIED DISABILITY TRUST.**—For purposes of clause (i), the term ‘qualified disability trust’ means any trust if—

“(I) such trust is a disability trust described in subsection (c)(2)(B)(iv) of section 1917 of the Social Security Act (42 U.S.C. 1396p), and

“(II) all of the beneficiaries of the trust as of the close of the taxable year are determined by the Commissioner of Social Security to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382c(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled.

“(3) DEDUCTIONS IN LIEU OF PERSONAL EXEMPTION.—The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).”

Applicability.  
26 USC 642 ncte.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after September 11, 2001.

## ~~TITLE II—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS~~

### ~~SEC. 201. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.~~

26 USC 6103.

(a) DISCLOSURE WITHOUT A REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

“(C) TERRORIST ACTIVITIES, ETC.—

“(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

“(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

“(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

“(iv) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2003.”

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

HB

68



# **REPRESENTATIVE RALPH SAMUELS**

---

HOUSE DISTRICT 29

## **CS HB 68 Sponsor Statement**

### **“An Act relating to the jurisdiction of the Office of Victims’ Rights”**

This legislation was sponsored to clarify that municipalities be specifically included in the definition of a justice agency. It was the intent of the original bill for the Office of Victims’ Rights to be able to communicate directly with the municipality, the police department and the department of law, and a minor technical change is needed to make this happen. As a result of the minor language change, the Office of Victims’ Rights will have jurisdiction to act on behalf of the victims it represents with all critical agencies.

**Email:** [Representative\\_Ralph\\_Samuels@legis.state.ak.us](mailto:Representative_Ralph_Samuels@legis.state.ak.us)

**Session:** Alaska State Capitol, Juneau, Alaska 99801-1182 • **Phone:** (907) 465-2095 **Fax:** (907) 465-3810  
**Interim:** 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • **Phone:** (907) 269-0240 **Fax:** (907) 269-0242

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 68(JUD)  
 (H) Publish Date: 2/7/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
 Title: "An Act relating to the office of victims'..." BRU: Legislative Council  
 Component: Council and Subcommittees  
 Sponsor: Representative Samuels, Stoltze, ...  
 Requester: House Judiciary Component No.: 783

**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	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2003) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

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

**ANALYSIS:** (Attach a separate page if necessary)  
 HB 68 amends the definition of "justice agency" under AS 24.65.250(1) to include municipalities. This bill has zero fiscal impact to the Office of Victims' Rights as the office currently works with municipalities on a statewide basis. This amendment would clarify the current practice of the Office of Victims' Rights.

Prepared by: Karla Schofield, Deputy Director Phone 465-3850  
 Division: Administrative Services Date/Time 2/4/03 5:08 PM  
 Approved by: Pamela A. Varni, Executive Director Date 2/4/2003  
 Agency: Legislative Affairs Agency

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# Municipality of Anchorage

Office of the Mayor  
George P. Wuerch, Mayor



January 29, 2003

Senator Lyda Green  
State of Alaska  
State Capitol, Room 516  
Juneau, AK 99801-1182

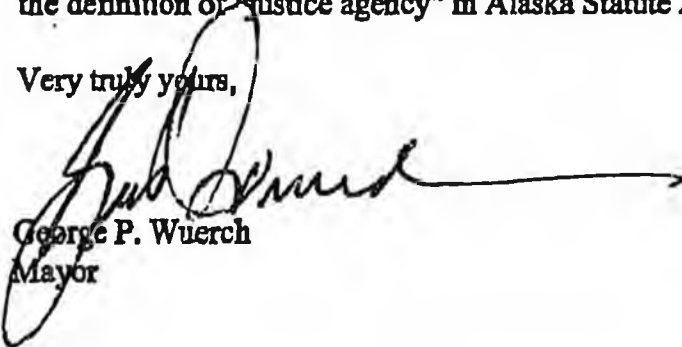
Representative Ralph Samuels  
State of Alaska  
State Capitol, Room 412  
Juneau, AK 99801-1182

Re: House Bill Relating to the Office of Victims' Rights

Dear Senator Green and Representative Samuels:

Please include municipalities as a unit of government, along with the executive and judicial branches of State government, in which there are "justice agencies", under the jurisdiction of the Office of Victims' Rights. (Revisions to Alaska Statute 24.65.110 and the definition of "justice agency" in Alaska Statute 24.65.250.)

Very truly yours,

  
George P. Wuerch  
Mayor

**Municipality  
of  
Anchorage**



P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 543-4311  
Fax: (907) 543-4313 or 543-4780  
[www.ci.anchorage.ak.us/Assembly](http://www.ci.anchorage.ak.us/Assembly)

**ANCHORAGE ASSEMBLY**

**January 31, 2003**

**Representative Ralph Samuels  
Room 409  
State Capitol  
Juneau AK 99801-1182**

**Dear Representative Samuels:**

**You have offered HB 38 along with seven of your house colleagues relating to the jurisdiction of the State Office of Victims' Rights. The Bill would clarify State law by making specific reference to Municipalities in its definition of justice agencies within OVR's jurisdiction. Enactment would resolve a technical question first raised by Anchorage Municipal Attorney Bill Green in connection with OVR's inquiry into the Godfrey shooting.**

**First by resolution and later by an amendment to the Anchorage Municipal Code, the Anchorage Assembly has already gone on record as acknowledging the jurisdiction of the State Office of Victims' Rights over the Municipality and requiring Municipal Officials to cooperate with that agency in its investigations. Based on these prior enactments and comments of individual members on January 28, 2002, when we first learned of your introduction of HB 68, I can safely say the Anchorage Assembly supports the goal of this legislation and would urge its enactment. If a more formal resolution of the Assembly would be helpful, please contact me.**

**Sincerely,**

**Dick Traini  
Chair**



**STATE OF ALASKA  
OFFICE OF VICTIMS' RIGHTS**

Ralph Samuels  
Representative  
State Capitol, Room 409  
Juneau, Alaska 99801-1182

January 30, 2003

Lyda Green  
Senator  
State Capitol, Room 516  
Juneau, Alaska 99801-1182

RE: House Bill 68 and Senate Bill 42

Dear Representative Samuels and Senator Green:

In 2001 the Alaska legislature enacted a law that created a new agency within the legislature known as the Alaska Office of Victims' Rights (OVR) of which I am the director. The law, which may be found in Alaska statutes 24.65.010.250, went into effect on July 1, 2002. Our purpose is to help crime victims when they are unexpectedly and suddenly drawn into an often indifferent but always confusing criminal justice system at a time when they are trying to cope with injury and personal loss. It is equally to protect the rights they have under Alaska's constitution and statutes while working with police, prosecutors and criminal justice agencies as the investigation and prosecution of their cases unfolds, which can sometimes take months or years. Our clients, which now number more than 100, have sought a variety of services including information, education, investigation, in court advocacy and support. In providing these needed services we have focused on facilitating a cooperative relationship between criminal justice agencies and victims of crime.

While we have statewide jurisdiction, and assist many crime victims throughout Alaska, most of our clients reside within the Municipality of

1007 WEST 3RD AVENUE, SUITE 205 • ANCHORAGE, ALASKA 99501-1936  
TELEPHONE: 1-907-272-2620 • FACSIMILE: 1-907-272-2640

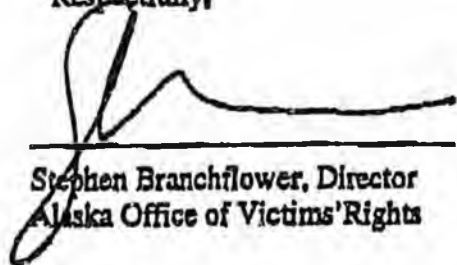
Anchorage, the state's most populated city. The Anchorage Police Department (APD), the largest law enforcement organization in the state, is responsible for investigating the majority of criminal cases in this community and is the justice agency we deal with for more than two-thirds of our cases.

I support passage of the amendment proposed in HB 68 and its companion in the Senate, SB 42, because it would clarify the definition of the term "justice agency" in AS 24.65.110(a)(1) by making it clear that APD, falls under the OVR's oversight. The legislature necessarily meant to include this police department and large population of victims under the umbrella of OVR's protection when it created this office. Since the amended statute will have statewide application, it will make it clear that police departments in smaller jurisdictions are also covered.

Officials of the Municipality of Anchorage are on record supporting the purpose of HB 68 and SB 42. For example, members of the Anchorage Assembly unanimously voted for passage of AO 2003-2 on January 28, 2003. That new ordinance states in pertinent part "The jurisdiction of the Office of Victims' rights over the Municipality of Anchorage, its departments, agencies, officials, and employees is officially acknowledged." Also, Anchorage's Mayor George Wuerch supported enactment of AO 2003-2, and spoke in favor of that ordinance when it came up for assembly action on the 28<sup>th</sup>. He has requested that you sponsor HB 68 on his behalf.

For these reasons, I join with the Mayor, Anchorage Assembly members, and others in the community who will be supporting this legislation, to urge passage of this needed amendment.

Respectfully,



Stephen Branchflower, Director  
Alaska Office of Victims' Rights

Cc: Representatives Bill Stoltze, Lesil McGuire, Tom Anderson, Kevin Meyer,  
Max Gruenberg, Mike Hawker, co-sponsors of HB 68

State of Alaska Representative, Ralph Samuels  
State Capitol Room 409  
Juneau, Alaska 99801-1182

February 2, 2003

Dear Representative Samuels:

We are writing this letter in support of House Bill 68 and Senate Bill 42 in an effort to encourage, or compel, if necessary, all municipalities within the state of Alaska to comply with The Office of Victims' Rights when it is operating in the capacity, which it was intended to. By bringing clarity to the term "justice agency" it would appear as though there would remain little room for the authority and jurisdiction of The Office of Victims' Rights to be misconstrued by any municipality or agency of justice governed by a municipality.

The unfortunate tragedy that recently struck our family created a need for us to turn to the OVR. As a resource the OVR has been invaluable. However, the investigation we requested by The Office of Victims' Rights was hindered through a delayed process of disclosure, which ultimately prolonged the investigation as well as the frustration of our family. An intermittent reluctance by the Anchorage Municipal Attorney's office to acknowledge the jurisdiction of The Office of Victims' Rights hampered, what should and could have been, a more expeditious process. We would desire that no one would suffer such a plight as ours, but should it happen again, we believe that no investigation should be inhibited by a question of jurisdiction or authority of The Office of Victims' Rights. That potential no longer exists within the Municipality of Anchorage because the assembly and mayor have graciously recognized the jurisdiction of the OVR through municipal ordinance. Unfortunately, that only accounts for Anchorage and the "justice agencies" within it. It is therefore prudent and timely for this legislature to ensure the intent of the previous legislature in clarifying the jurisdiction in the wording of the bill, which created The Office of Victims' Rights. We hereby embrace the sponsorship of the previously stated bills and encourage the passage of the amended wording.

Sincerest thanks,



Gerard Godfrey, The Godfrey Family

# Anchorage Daily News

January 30, 2003



Alaska  
Legislature

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## Bills would clarify jurisdiction

**AUTHORITY:** Reach of state victims' rights advocate would extend into municipality.

#### The Associated Press

**JUNEAU** — Several lawmakers want to make clear that a state victims' rights advocate can get involved in municipal as well as state cases.

House Bill 88, which was introduced Wednesday, stems from the state Office of Victims' Rights investigation into the slow response by Anchorage emergency workers to the August shootings of Glenn and Patti Godfrey.

Glenn Godfrey, a retired public safety commissioner, was killed by his former girlfriend, Karen Brand, who also killed herself and shot Godfrey's wife, Patti.

Because of problems in the Anchorage police dispatch system, it took emergency workers 48 minutes to reach Patti God-

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*When the office issued its critical report on the Godfrey case in November, Anchorage municipal attorney Bill Greene questioned whether the victims' rights office had jurisdiction in the case.*

---

frey, who lay bleeding in her Eagle River home.

The Office of Victims' Rights investigated the case and issued a report finding Patti Godfrey's right to emergency help had been violated and urged changes in the Anchorage dispatch system.

The bill's sponsor, Rep. Ralph Samuels,

R-Anchorage, said Anchorage Mayor George Wuerch requested the legislation.

Current law does not make it clear whether the Office of Victims' Rights has authority to investigate municipalities' responses to crime, Samuels said.

When the office issued its critical report on the Godfrey case in November, Anchorage municipal attorney Bill Greene questioned whether the victims' rights office had jurisdiction in the case.

Jennifer Payne, a spokeswoman for Wuerch, said the mayor supports the legislation because he wants to make clear the city does not want to thwart the work of the victims' rights office.

"The mayor wanted to make sure that was cleared up, so there was no misunderstanding," Payne said.

Seven representatives have signed on as co-sponsors to the bill. A similar bill was introduced Wednesday in the Senate by Sen. Lyda Green, R-Wasilla. It is Senate Bill 42.

**Sec. 29.71.050. Procurement preferences for recycled Alaska products.**

(a) Alaska recycled products shall be used in municipal procurements when the products are of comparable quality, of equivalent price, and appropriate for the intended use.

(b) Unless the procurement is governed by AS 29.71.040, in the evaluation of a bid or proposal for a procurement by a municipality, if a bid or proposal designates the use of recycled Alaska products for the products identified in the contract specifications, and if the recycled Alaska products meet the contract specifications, the bid or offer shall be decreased by the percentage of preference given to the recycled Alaska products under AS 36.30.332.

(c) The contract specifications for a municipal procurement must include a provision that describes the preference granted under (b) of this section.

(d) If a successful bidder or offeror who receives the preference under (b) of this section fails to use the designated recycled Alaska product for a reason within the control of the successful bidder or offeror, each payment under the contract shall be reduced by the percentage reduction scheduled under AS 36.30.330(a) for the classification the product has received under AS 36.30.332.

(e) In the evaluation of a bid or proposal for a municipal procurement, a person is not a responsible bidder or offeror if, during two contracts for which the person received a preference under (b) of this section during the preceding three years, the person failed to use the recycled Alaska product designated in the person's bids or proposals for the contracts for reasons within the control of the bidder or offeror.

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

(g) In this section, "recycled Alaska product" has the meaning given in AS 36.30.338. (§ 3 ch 63 SLA 1988)

**Revisor's notes.** — Enacted as AS 29.71.040. Renumbered in 1988. Also in 1988, a reference to "AS 29.71.040" in (b) of this section was substituted for a reference to "AS 36.15.050" to reflect the amendment to AS 36.15.050 and enactment of AS 29.71.040 by ch. 64, SLA 1988.

**Sec. 29.71.060. Copyrights in computer software.** A municipality may hold the copyright for software created by the municipality or developed by a contractor for the municipality, and may enforce its rights to protect the copyright. (§ 13 ch 200 SLA 1990)

**Sec. 29.71.800. Definitions.** In this title, unless otherwise provided or the context otherwise requires,

(1) "areawide" means throughout a borough, both inside and outside all cities in the borough;

(2) "assembly" means the governing body of a borough;

(3) "borough" means a general law borough or a home rule borough;

(4) "city" means a general law first or second class city or a home rule city;

(5) "commissioner" means the commissioner of community and economic development;

(6) "consolidation" means dissolution of two or more municipalities and their incorporation as a new municipality;

(7) "council" means the governing body of a city;

(8) "department" means the Department of Community and Economic Development;

(9) "election" means a regular or special municipal election and does not include a state election;

(10) "governing body" means the legislative body of a municipality that is the assembly of a borough or the council of a city;

(11) "majority" means a simple majority;

(12) "merger" means dissolution of a municipality and its absorption by another municipality;

(13) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

*municipality  
definition*

*General definition*

regardless of the person's pay level or technical status as a full-time or part-time employee, independent contractor, or consultant; it includes public members and staff of the committee; it does not include individuals who perform functions that are incidental to legislative functions, including security, messenger, maintenance, and print shop employees, and other employees designated by the committee;

(11) "lobbyist" means a person who is required to register under AS 24.45.041 and is described under AS 24.45.171(8)(A), but does not include a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the Alaska Public Offices Commission;

(12) "political action" means conduct in which public officials, including legislators or legislative employees, use their official position or political contacts to exercise influence on state and local government employees or entities; it includes but is not limited to endorsing and pledging support or actively supporting a legislative matter, a nominee, or a candidate for public office;

(13) "registered lobbyist" means a person who is required to register under AS 24.45.041;

(14) "representation" means action taken on behalf of another, whether for compensation or not, including but not limited to telephone calls and meetings and appearances at proceedings or meetings;

(15) "spousal equivalent" means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage;

(16) "state office" includes the office of governor, lieutenant governor, member of the legislature, or similar state office.

(b) A person has a substantial interest in legislative, administrative, or political action if the person (1) is not a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action; (2) is a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action in a way that is greater than the effect on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region; (3) has or seeks contracts in excess of \$10,000 annually for goods or services with the legislature or with an agency of the state; or (4) is a lobbyist. For the purpose of this subsection, the state, the federal government, and an agency, corporation, or other entity of or owned by the state or federal government do not have a substantial interest in legislative, administrative, or political action. (§ 31 ch 127 SLA 1992; am §§ 64, 65 ch 74 SLA 1998; am § 17 ch 92 SLA 2001)

**Delayed amendment.** — Under § 51, ch. 92, SLA 2001, effective July 1, 2006, paragraph (a)(9) of this section will read as follows: "(9) 'legislative director' means the director of the legislative finance division, the legislative auditor, the director of the legislative research agency, the ombudsman, the executive director of the Legislative Affairs Agency, and the directors

of the divisions within the Legislative Affairs Agency."

**Effect of amendments.** — The 1998 amendment, effective January 1, 1999, in subsection (a) rewrote paragraph (5) and added paragraphs (15) and (16).

The 2001 amendment, effective July 1, 2002, inserted "the victim's advocate," in paragraph (a)(9).

## Chapter 65. Office of Victims' Rights.

### Section

- 10. Office of victims' rights
- 20. Appointment of the victims' advocate
- 30. Qualifications
- 40. Term of office
- 50. Removal
- 60. Compensation
- 70. Staff and delegation
- 80. Office facilities and administration
- 90. Procedure
- 100. Jurisdiction; duties
- 110. Advocacy on behalf of crime victims; records
- 120. Investigations

### Section

- 130. Powers
- 140. Consultation
- 150. Procedure after investigation
- 160. Publication of recommendations
- 170. Annual report
- 180. Judicial review
- 190. Immunity of the victims' advocate
- 200. Victims' advocate's privilege not to testify or produce documents or other evidence
- 210. Penalty
- 250. Definitions

Current OVR  
Statute

pg. 87 / definition

Effective dates. — Section 49, ch. 92, SLA 2001  
kes this chapter effective July 1, 2002.

Editor's notes. — Under § 47, ch. 92, SLA 2001,  
otwithstanding [the July 1, 2002, effective date of  
visions establishing or relating to the office of  
vims' rights], to the extent there are appropriations

for the purpose, the executive director of the Legisla-  
tive Affairs Agency may purchase supplies and equip-  
ment, obtain office space, and employ clerical staff so  
that the office of victims' rights, created in [AS 24.65],  
is able to begin work on July 1, 2002."

**Sec. 24.65.010. Office of victims' rights.** There is created in the legislative branch  
the state the office of victims' rights. The victims' advocate is the director of the office  
victims' rights. (§ 19 ch 92 SLA 2001)

elayed repeal of section. — Under §§ 41 and  
ch. 92, SLA 2001, this section is repealed July 1,  
6.

**Sec. 24.65.020. Appointment of the victims' advocate.** (a) A candidate for ap-  
ntment as the victims' advocate shall be nominated by the victims' advocate selection  
nmittee composed of three members of the senate appointed by the president of the  
ate and three members of the house of representatives appointed by the speaker of the  
se. One member of a minority party caucus in each house shall be appointed to the  
ection committee.

b) The victims' advocate selection committee shall examine persons to serve as  
vims' advocate regarding their qualifications and ability and shall place the name of  
erson selected in nomination. The appointment is effective if the nomination is  
roved by a roll call vote of two-thirds of the members of the legislature in joint session.  
e vote on the appointment shall be entered in the journals of both houses. (§ 19 ch 92  
A 2001)

elayed repeal of section. — Under §§ 41 and  
ch. 92, SLA 2001, this section is repealed July 1,  
6.

**Sec. 24.65.030. Qualifications.** A person may not serve as victims' advocate  
1) unless the person has been a resident of the state for the three years immediately  
ceding the person's appointment;  
2) unless the person has been engaged in the active practice of law for the three years  
nediately preceding the person's appointment;  
3) unless the person has significant experience in criminal law;  
4) unless the person is an attorney licensed to practice law in this state;  
5) within one year of the last day on which the person served as a member of the  
islature;  
3) while the person is a candidate for or holds another national, state, or municipal  
ce; the victims' advocate may not become a candidate for national, state, or municipal  
ce until one year has elapsed from the date the victims' advocate vacates the office of  
vims' advocate;  
7) while the person is engaged in another occupation for which the person receives  
pensation;  
3) unless the person is at least 21 years of age and is a qualified voter. (§ 19 ch 92 SLA  
1)

elayed repeal of section. — Under §§ 41 and  
h. 92, SLA 2001, this section is repealed July 1,  
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**Sec. 24.65.040. Term of office.** (a) The term of office of the victims' advocate is five years. A victims' advocate may be reappointed but may not serve for more than three terms.

(b) If the term of a victims' advocate expires without the appointment of a successor under this chapter, the incumbent victims' advocate may continue in office until a successor is appointed. If the victims' advocate dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the person appointed as acting victims' advocate under AS 24.65.070(a) serves until a new victims' advocate is appointed for a full term. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.050. Removal.** The legislature, by a concurrent resolution adopted by a roll call vote of two-thirds of the members of each house entered in the journal, may remove or suspend the victims' advocate from office, but only for neglect of duty, misconduct, or disability. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.060. Compensation.** The victims' advocate is entitled to receive an annual salary equal to Step A, Range 26, on the salary schedule set out in AS 39.27.011(a) for Juneau. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.070. Staff and delegation.** (a) The victims' advocate shall appoint a person to serve as acting victims' advocate in the absence of the victims' advocate. The victims' advocate shall also appoint assistants and clerical personnel necessary to carry out the provisions of this chapter. Subject to AS 36.30.020, the victims' advocate may enter into personal services and other contracts the victims' advocate finds necessary to carry out the provisions of this chapter. The victims' advocate shall, to the maximum extent practicable, conduct the duties and work of the office by entering into personal services and other contracts the victims' advocate finds necessary to carry out the provisions of this chapter.

(b) The victims' advocate may delegate to the assistants any of the victims' advocate's duties except those specified in AS 24.65.150 and 24.65.160; however, during the victims' advocate's absence from the principal business offices, the victims' advocate may delegate the duties specified in AS 24.65.150 and 24.65.160 to the acting victims' advocate for the duration of the absence. The duties specified in AS 24.65.150 and 24.65.160 shall be performed by the acting victims' advocate when serving under AS 24.65.040(b).

(c) The victims' advocate and the staff appointed by the victims' advocate are in the exempt service under AS 39.25.110 and are not subject to the employment policies under AS 24.10 or AS 24.20. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.080. Office facilities and administration.** (a) Subject to restrictions and limitations imposed by the executive director of the Legislative Affairs Agency, the administrative facilities and services of the Legislative Affairs Agency, including com-

puter, data processing, and teleconference facilities, may be made available to the victims' advocate to be used in the management of the office of victims' rights and to carry out the purposes of this chapter.

(b) The salary and benefits of the victims' advocate and the permanent staff of the victims' advocate shall be paid through the same procedures used for payment of the salaries and benefits of other permanent legislative employees.

(c) The victims' advocate shall submit a budget for each fiscal year to the Alaska Legislative Council, and the council shall annually submit an estimated budget to the governor for information purposes in the preparation of the executive budget. After reviewing and approving, with or without modifications, the budget submitted by the victims' advocate, the council shall submit the approved budget to the finance committees of the legislature. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.090. Procedure.** (a) The victims' advocate shall, by regulations adopted under AS 44.62 (Administrative Procedure Act), establish procedures for advocacy on behalf of crime victims, receiving and processing complaints, conducting investigations, reporting findings, and ensuring that confidential information obtained by the victims' advocate in the course of advocacy on behalf of a crime victim or in the course of an investigation will not be improperly disclosed. The victims' advocate may establish procedures so that advocacy and investigations on behalf of crime victims in felony cases take a priority over advocacy and investigations on behalf of crime victims in misdemeanor cases.

(b) The office of victims' rights may not charge fees for the submission or investigation of complaints. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.100. Jurisdiction; duties.** (a) The victims' advocate has jurisdiction to advocate on behalf of crime victims of felony offenses or class A misdemeanors, if the class A misdemeanor is a crime involving domestic violence or a crime against a person under AS 11.41, in the courts of the state and to investigate the complaints of crime victims of felony offenses or class A misdemeanors, if the class A misdemeanor is a crime involving domestic violence or a crime against a person under AS 11.41, that they have been denied their rights under the constitution and the laws of the state. In this subsection, "crime involving domestic violence" has the meaning given in AS 18.66.990.

(b) The victims' advocate shall exercise reasonable care to

(1) ensure that the victims' advocate's exercise of jurisdiction granted under this section does not interfere with an ongoing criminal investigation or with a criminal prosecution;

(2) prevent employees of the office of victims' rights from making extrajudicial statements that the victims' advocate is prohibited from making under the Alaska Rules of Professional Conduct.

(c) The victims' advocate may not advise, counsel, or advocate on behalf of a victim in a way that would

(1) prevent or discourage a victim from cooperating in a criminal investigation;

(2) encourage a victim to withhold evidence in a criminal investigation; or

(3) prevent or discourage a victim from testifying in a criminal proceeding. (§ 19 ch 92 SLA 2001)

Delayed repeal of section. — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.110. Advocacy on behalf of crime victims; records.** (a) The victims' advocate shall assist crime victims in obtaining the rights crime victims are guaranteed under the constitution and laws of the state with regard to the contacts crime victims have with the justice agencies of the state.

(b) The victims' advocate may make the statement a crime victim is authorized to make under art. I, sec. 24, Constitution of the State of Alaska, and AS 12.55.023, in a court of the state when requested by the crime victim and when the crime victim does not personally make a statement.

(c) When advocating on behalf of a crime victim in an ongoing criminal case or juvenile adjudication, the victims' advocate is entitled to all information available to the defendant or juvenile.

(d) Records obtained by the victims' advocate shall remain in the exclusive custody of the victims' advocate. The victims' advocate may not disclose confidential information to any person. (§ 19 ch 92 SLA 2001)

Delayed repeal of section. — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

on Rule 16, Alaska Rules of Criminal Procedure, and Rule 9, Alaska Delinquency Rules, see § 43, ch. 92, SLA 2001, in the 2001 Temporary and Special Acts.

Cross references. — For the effect of this section

**Sec. 24.65.120. Investigations.** (a) The victims' advocate may investigate complaints from crime victims that they have been denied the rights they are guaranteed under the constitution and laws of this state.

(b) In an investigation, the victims' advocate may

(1) make inquiries and obtain information considered necessary;

(2) hold private hearings; and

(3) notwithstanding other provisions of law, have access at all times to records of justice agencies, including court records of criminal prosecutions and juvenile adjudications, necessary to ensure that the rights of crime victims are not being denied; with regard to court and prosecution records, the victims' advocate is entitled to obtain access to every record that the defendant is entitled to access or receive.

(c) The victims' advocate shall maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before the victims' advocate except insofar as disclosures may be necessary to enable the victims' advocate to carry out duties and to support recommendations. However, the victims' advocate may not disclose a confidential record obtained from a court or justice agency. (§ 19 ch 92 SLA 2001)

Delayed repeal of section. — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

on Rule 16, Alaska Rules of Criminal Procedure, and Rule 9, Alaska Delinquency Rules, see § 43, ch. 92, SLA 2001, in the 2001 Temporary and Special Acts.

Cross references. — For the effect of this section

**Sec. 24.65.130. Powers.** (a) Subject to the privileges recognized by court rule and statute of this state, the victims' advocate may compel by subpoena, at a specified time and place, the

(1) appearance and sworn testimony of a person who the victims' advocate reasonably believes may be able to give information relating to a matter under investigation under AS 24.65.120; and

(2) production by a person of a record or object that the victims' advocate reasonably believes may relate to the matter under investigation under AS 24.65.120.

(b) If a person refuses to comply with a subpoena issued under (a) of this section, the superior court may, on application of the victims' advocate, compel obedience by

proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court or refusal to testify in the court.

(c) This section does not authorize the victims' advocate to issue a subpoena to

(1) a justice, judge, magistrate, or a law clerk acting under the direction of a justice, judge, or magistrate, concerning a judicial action or nonaction taken by, or under the direction of, the justice, judge, or magistrate;

(2) a person acting under the direction of a justice, judge, or magistrate, other than a law clerk, concerning a judicial action or nonaction taken by, or under the direction of, a justice, judge, or magistrate except to establish the occurrence or nonoccurrence of the action or nonaction or the person's own actions or nonactions; this paragraph does not authorize the victims' advocate to inquire into the decision-making or thought process of the justice, judge, or magistrate;

(3) a member of a jury concerning a matter that was considered by the jury;

(4) the person accused or convicted of committing the crime that is the basis for the complaint, and investigation under AS 24.65.120, concerning a denial of rights or an attorney retained by the person or appointed by a court to represent the person;

(5) a victim counselor concerning a matter made confidential by AS 18.66.200 — 18.66.250; or

(6) a justice agency concerning records that lead to the disclosure of a confidential police informant. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.140. Consultation.** Before giving an opinion or recommendation that is critical of a justice agency or person as a result of an investigation under AS 24.65.120, the victims' advocate shall consult with that agency or person. The victims' advocate may make a preliminary opinion or recommendation available to the agency or person for review, but the preliminary opinion or recommendation is confidential and may not be disclosed to the public by the agency or person. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.150. Procedure after investigation.** (a) The victims' advocate shall report the advocate's opinion and recommendations to a justice agency if the victims' advocate finds, after investigation under AS 24.65.120, that the agency has denied a crime victim rights the crime victim is guaranteed under the constitution and laws of this state.

(b) The victims' advocate may request the justice agency to notify the victims' advocate, within a specified time, of any action taken on the recommendations.

(c) The report provided under (a) of this section is confidential and may not be disclosed to the public by the justice agency. The victims' advocate may disclose the report under AS 24.65.160 only after providing notice that the investigation has been concluded to the agency and after receiving the written approval of the complainant to release the report. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.160. Publication of recommendations.** Except as provided in AS 24.65.150(c), within a reasonable amount of time after the victims' advocate reports the advocate's opinion and recommendations to a justice agency, the victims' advocate may

present the opinion and recommendations to the governor, the legislature, a grand jury, the public, or any of these. The victims' advocate shall include with the opinion any reply made by the agency. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.170. Annual report.** The victims' advocate shall make available to the public an annual report of the victims' advocate's activities under this chapter and notify the legislature that the report is available. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.180. Judicial review.** A proceeding or decision of the victims' advocate may be reviewed in superior court only to determine if it is contrary to the provisions of this chapter. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.190. Immunity of the victims' advocate.** A civil action may not be brought against the victims' advocate or a member of the victims' advocate's staff for anything done, said, or omitted in performing the victims' advocate's duties or responsibilities under this chapter. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.200. Victims' advocate's privilege not to testify or produce documents or other evidence.** Except as may be necessary to enforce the provisions of this chapter, the determinations, conclusions, thought processes, discussions, records, reports, and recommendations of or information collected by the victims' advocate or staff of the victims' advocate are not admissible in a civil or criminal proceeding, and are not subject to questioning or disclosure by subpoena or discovery. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006. on Rules 402 and 501, Alaska Rules of Evidence, see § 44, ch. 92, SLA 2001, in the 2001 Temporary and Special Acts.

**Cross references.** — For the effect of this section

**Sec. 24.65.210. Penalty.** A person who knowingly hinders the lawful actions of the victims' advocate or the staff of the victims' advocate, or who knowingly refuses to comply with their lawful demands, is guilty of a misdemeanor and upon conviction may be punished by a fine of not more than \$1,000. In this section, "knowingly" has the meaning given in AS 11.81.900. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 51, ch. 92, SLA 2001, this section is repealed July 1, 2006.

**Sec. 24.65.250. Definitions.** In this chapter,  
 (1) "justice agency" means a department, office, institution, corporation, authority, organization, commission, committee, council, court, or board in the executive or judicial branches of the state government that is, in any manner, involved with or responsible for

he apprehension, prosecution, incarceration, or supervision of criminal or juvenile offenders; it also includes an officer, employee, or member of an agency acting or purporting to act in the exercise of official duties;

(2) "victim" has the meaning given in AS 12.55.185. (§ 19 ch 92 SLA 2001)

**Delayed repeal of section.** — Under §§ 41 and 1, ch. 92, SLA 2001, this section is repealed July 1, 2006.

HB

82



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## Sponsor Statement

### CS HB 82 (L&C)

**“An Act making certain activity related to commercial electronic mail unlawful and an unfair method of competition or an unfair or deceptive act or practice under the Act enumerating unfair trade practices and consumer protection.”**

Under CS HB 82(L&C), individuals are prohibited from sending unsolicited commercial electronic mail that contains explicit sexual material, without the subject line of the communication containing “ADV: ADLT” as the first eight characters.

It is not uncommon to receive unsolicited e-mail messages that contain strong sexual content and hyperlinks to pornographic Web sites. With a commonly used e-mail software (e-mail client software that can display HTML documents), it takes just a single mouse click to be viewing a pornographic Web site. The frustration and annoyance of unsolicited commercial e-mail becomes apparent when the advertisements reach those who have no interest in such material, and when such material reaches children. Age is not a discriminatory factor in who receives electronic advertisements for sexually explicit material.

Publishers, distributors, and adult entertainment business owners are legally forbidden from selling, renting, or displaying explicit sexual material to children in a bookstore or video store. However, the same material is made available on-line through Web sites and unsolicited advertisements sent through e-mail. By requiring those who wish to send unsolicited e-mail with age appropriate material to include in the subject line of the advertisements “ADV:ADLT”, Internet users and parents are provided sufficient information as to the content of an e-mail.

CS HB 82(L&C) is a consumer protection measure. Currently 26 states have laws pertaining to unsolicited commercial e-mail. Nine of the states have the same labeling requirement as proposed in CS HB 82(L&C). CS HB 82(L&C) is not a direct ban on unsolicited commercial electronic mail. This bill will enable Internet users and parents to know exactly what is being sent electronically to them and to their children.

Last Updated: March 14, 2003



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## Sectional Analysis

CS HB 82(L&C)

**“An Act making certain activity related to commercial electronic mail unlawful and an unfair method of competition or an unfair or deceptive act or practice under the Act enumerating unfair trade practices and consumer protection.”**

**Section 1:** Adds AS 45.50.479 to unlawful acts and practices listed under Unfair Trade Practices and Consumer Protection.

**Section 2:** Prohibits a person from sending unsolicited commercial electronic to another person from a computer located in this state or to an electronic mail address that the sender knows is held by a resident of this state if the electronic mail contains explicit sexual material, unless the subject line of the electronic mail contains “ADV:ADLT” as the first eight characters; and defines “commercial electronic mail” and unsolicited commercial electronic mail” as it pertains to this section.

List Updated: March 14, 2003

Email: Representative\_Kevin\_Meyer@legis.state.ak.us • Toll Free: (866) 465-4945  
Session: State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-4945 Fax: (907) 465-3476  
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# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 82(L&C)  
(H) Publish Date: 2/14/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
Title: "An Act making certain activities related to BRU Civil Division  
commercial electronic mail unlawful as unfair methods of . . ." Component Fair Business Practices  
Sponsor: Representative Meyer  
Requester: House Labor and Commerce Committee 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
HB 82 places certain limitations on commercial electronic mail (e-mail) sent to Alaskans. Commercial e-mail would not be allowed if the sender does not have an existing personal or business relationship with the recipient, if the recipient has not granted permission or asked for the e-mail, if the e-mail contains misleading information on the origin or routing of the e-mail, or if the subject line contains misleading information. Finally, the bill prohibits unsolicited commercial e-mail which contains sexually explicit material that other laws require be made available only to persons 18 years or older without the subject line beginning with the characters "ADV:ADLT".

The Department of Law does not anticipate a 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 Daughettee 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: 2  
Bill Version: CSHB 82 (L&C)  
(H) Publish Date: 2/26/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
Title: "An Act making certain activity related to BRU Civil Division  
commercial electronic mail unlawful and an unfair method of . . ." Component Fair Business Practices  
Sponsor Representative Meyer  
Requester House Judiciary Committee 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (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)

CSHB 82 (L&C) prohibits unsolicited commercial e-mail sent from a computer in Alaska or to an e-mail address that the sender knows is held by an Alaskan resident which contains sexually explicit material without the subject line beginning with the characters "ADV:ADLT".

The Department of Law does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson Phone (907) 465-5370  
Division: Attorney General's Office Date/Time 2/20/03 3:36 PM  
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/20/2003  
Agency: Department of Law

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSHB 92(L&C)  
(H) Publish Date: 2/26/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
Title An act making certain activity related BRU AST Detachment  
commercial electronic mail unlawful and .... Component AST Detachment  
Sponsor Representative Meyer  
Requester House Judiciary Component No. 2325

### 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

### FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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.

Prepared by: Lieutenant Matthew Leveque  
Division Alaska State Troopers  
Approved by: William Tandeske, Commissioner  
Agency Department of Public Safety

Phone 907 269-0300  
Date/Time 2/19/03 10:58 AM  
Date 2/19/2003



Honorable Con Bunde, Chair  
Senate Labor and Commerce Committee  
Alaska Capital, Room 506  
Juneau, AK 99801-1182

March 9, 2003

RE: HB 82 (Meyer) - Support

Dear Chair Bunde:

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the Senate Labor and Commerce Committee to support HB 82, authored by Representative Kevin Meyer and co-sponsored by nine of his House colleagues.

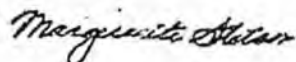
With each year, we find more and more AARP members "on-line" using the Internet for communicating with each other, with children and grandchildren, for business and for enjoyment. With each year, we have also had more complaints about obscene and sexually explicit materials being sent to home computers by unknown entities. We are aware that it is impossible to completely police the Internet and prevent unwanted and unrequested pornography from our homes. HB 82 is, however, a good start to helping computer users become aware of e-mail that they may not wish to open. By including the advisory that the e-mail contains adult content, individuals can simply delete the message without an unwanted "surprise". Nine other states already require this advisory and we understand others are considering it this year. It is time for Alaska to provide this benefit for our citizens.

AARP urges an "A.YE" vote on HB 82.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capitol 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](mailto:ffmas@aurora.uaf.edu)

cc: Vice-Chair Ralph Seekins  
Senator Gary Stevens  
Senator Bettye Davis  
Senator Hollis French  
Representative Kevin Meyer  
Marie Darlin  
Patrick Luby

**Online Victimization:  
A Report on the Nation's Youth**

BY THE **CRIMES AGAINST CHILDREN RESEARCH CENTER**

**DAVID FINKELHOR  
KIMBERLY J. MITCHELL  
JANIS WOLAK**

**JUNE 2000**

**FUNDED BY THE U.S. CONGRESS THROUGH A GRANT TO THE  
NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN**

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