

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11341 SENATE STATE AFFAIRS

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110400  
JUNEAU, ALASKA 99811-0400  
TELEPHONE: (907) 465-2300  
FACSIMILE: (907) 465-2389

March 10, 2003

The Honorable John Cowdery  
Alaska State Legislature  
State Capitol, Room 101  
Juneau, AK 99801

Re: Daniel LaPlante's 2003 Permanent Fund Dividend

Dear Senator Cowdery:

We have reviewed Mr. LaPlante's 2003 Alaska Permanent Fund Dividend application at the request of your staff aide, Annette Skibinski. Mr. LaPlante, a U.S. Navy reservist, was absent from Alaska for the first six months of 2002 when he was called to active duty after the tragedy of September 11. He returned to Alaska in June 2002 and then left again on personal business in August, coming home at the end of November. He was absent from the state 104 days in 2002, in addition to his military service.

The Dividend Division has notified Mr. LaPlante that it will deny his 2003 dividend application. He has appeal rights but, to be totally honest, I do not believe he will prevail at an appeal hearing. I am sorry, but the law is against him.

Unfortunately, the statute that grants allowable absences for military service also limits any additional absence — beyond military service — to no more than 45 days in a calendar year. Alaska Statute 43.23.008(a)(14) allows "45 days in addition to any absence or cumulative absences claimed under (1) – (13) of this subsection." Military absences are Subsection (3). I believe the legislative intent was that military members who call Alaska their home should return to the state within a reasonable period of their discharge. I am certain that no one ever anticipated the issue of reservists being called to duty after such an event as September 11.

There is a statute, AS 23.23.005(f), that says, "... in time of national military emergency, the commissioner may waive the requirement of (a)(4) of this section for an individual absent from the state under military orders while serving in the armed forces of the United States. ..." Subsection (a)(4) is the requirement that an applicant must return to Alaska for at least 72 consecutive hours every two years to remain eligible for the

Senator John Cowdery

2

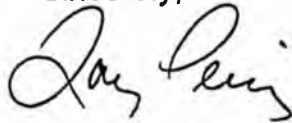
March 10, 2003

dividend. There is nothing in that statute that allows us to waive the 45-day absence rule during a military emergency.

I am sorry that there just isn't anything we can do under the law to help Mr. LaPlante qualify for the 2003 dividend. However, if you were concerned about a possible recurrence of such a case, you could amend AS 43.23.005(f) to allow the commissioner to waive the 45-day rule under AS 43.23.008(a)(14) in addition to the 72-hour rule under AS 43.23.005(a)(4).

Please let me know if we can provide any further assistance with this case, or if you are interested in pursuing any change to the statute. We look forward to working with you in any way we can to help improve the program.

Sincerely,

A handwritten signature in cursive script, appearing to read "Larry Persily".

Larry Persily  
Deputy Commissioner

**SB**

**152**

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 3/20/03

FURTHER: Judiciary

Date of 5-Day Notice: 4/10/03  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/15/03

State Affairs Committee considered SENATE BILL NO. 152

**SB 152 CONCEALED HANDGUNS**

"An Act relating to concealed handguns."

and recommends:

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

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DOL	4/11/03		✓	1

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>				

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# TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 NORTH LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

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THOMAS A. DAVIS, JR.  
DIRECTOR

DAVID McEATHRON  
ASST. DIRECTOR



COMMISSION  
COLLEEN MCHUGH  
CHAIRMAN

ROBERT B. HOLT  
JAMES B. FRANCIS, JR.  
COMMISSIONERS

April 4, 2003

Barbara Bitney  
Alaska State Legislature

via fax: 907-465-4928

RE: Concealed Handgun Reciprocity

Dear Ms. Bitney:

The Department will negotiate reciprocity agreements with states that provide for the issuance of concealed handgun licenses, provided the background investigation meets or exceeds that required by federal law as a condition of receiving a handgun and the state recognizes a license issued in Texas. According to correspondence from Lieutenant Julia P. Grimes of the Alaska Department of Public Safety, Alaska will not recognize a Texas license if the license holder has had an application in Alaska rejected or had a permit revoked or suspended by Alaska. Based on the fact Alaska does not recognize all Texas licenses, the requirement of Texas Government Code 411.173(b)(2) cannot be fulfilled, and the Department cannot enter into a reciprocity agreement with the state of Alaska.

Sincerely,

Louis Beaty  
Manager, Crime Records Service Legal Staff

# LEGAL SERVICES

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

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


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

## MEMORANDUM

April 7, 2003

**SUBJECT:** Sectional Summary - SB 152 (Work Order No. 23-LS0824\D)

**TO:** Senator Ralph Sea kins  
Attn: Brian

**FROM:** Gerald P. Luckhaupt   
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.** Amends AS 18.65.748 by removing language that prohibits a person who (1) is unqualified for an Alaska concealed handgun permit, or (2) had an Alaska concealed handgun permit revoked or suspended, from possessing a concealed handgun in Alaska with a permit from another state or political subdivision of another state.

**Section 2.** Requires the Department of Public Safety to enter into reciprocity agreements with other states so that Alaska permittees may carry concealed handguns in those other states.

GPL:lmb  
03-143.lmb

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 152  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title "An Act relating to concealed handguns." BRU Criminal Division  
 Component All  
 Sponsor Senate Judiciary Committee  
 Requester Senate State Affairs Committee Component No. \_\_\_\_\_

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

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

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

This bill recognizes valid permits to carry a concealed handgun from other jurisdictions. Holders of those permits would automatically be considered Alaska permittees as well. Further, the Department of Public Safety is directed to enter into reciprocity agreements with other states so Alaska permittees can carry concealed handguns in those states.

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

Prepared by: Joan M. Kasson Phone (907) 465-5370  
 Division Attorney General's Office Date/Time 4/11/03 3:32 PM  
 Approved by: Kathryn Daughetee for Gregg D. Renkes, Attorney General Date 4/11/2003  
 Agency Department of Law

# ALASKA STATE SENATE



Session:  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-2327  
(907) 465-5241 Fax

Interim:  
119 N. Cushman, Suite 201  
Fairbanks, Alaska 99701  
(907) 456-8161  
Senator\_Ralph\_Seekins@legis.state.ak.us

**Senator Ralph Seekins**  
District D

## SB 152 Sponsor Statement

In 2002 Senate Bill 242 was introduced to simply and clarify the procedures for recognizing concealed handgun permits for other states. As a result of a floor amendment offered late in the session, recognition was limited to those permits held by individuals who had not had a permit denied or revoked.

Although, the amendment appeared reasonable on the surface, an unintended consequence resulted in Texas, the second most populous state in the nation, refusing reciprocity. The refusal is technically bureaucratic in nature, yet presents a barrier to reciprocity. Senate Bill 152 attempts to resolve this issue.

The first section of the Bill recognizes permit holders from other states as valid permit holders in Alaska. The second section of the legislation requires the Alaska Department of Public Safety to enter into reciprocity agreements with other states, when it is necessary to benefit Alaska permit holders.

916/806-3854(CEL)



NATIONAL RIFLE ASSOCIATION OF AMERICA  
INSTITUTE FOR LEGISLATIVE ACTION  
555 CAPITOL MALL, SUITE 625  
SACRAMENTO, CALIFORNIA 95814  
(916)446-2455 voice ■ (916)448-7469 fax

STATE & LOCAL AFFAIRS DIVISION  
BRIAN JUDY, ALASKA STATE LIAISON

March 25, 2003

Senator Ralph Seekins  
State Capitol  
Juneau, AK 99801-1182

Dear Senator Seekins:

On behalf of the more than 24,000 Alaska members of the National Rifle Association, let me take this opportunity to offer our strong **support for Senate Bill 152**. SB 152 would help, in two ways, to ensure that other states recognize Alaska concealed handgun permits.

First, **Senate Bill 152** would repeal language which was put into the code last session as an amendment to a bill which was introduced to clarify the recognition of concealed handgun permits from other states. Senate Bill 242 (2002) was intended to simplify the recognition process by plainly recognizing all permits issued by other states. Supporters of the bill accepted an amendment late in the legislative process which has caused at least one state to refuse to recognize Alaska permits.

A concern was raised last year that Alaska residents who had a permit denied or revoked could travel to another state which issues permits to non-residents, obtain a permit and travel back to Alaska and carry under the out-of-state permit. Although supporters of SB 242 felt such was a highly unlikely scenario, an amendment was accepted to limit recognition of out-of-state permits to those held by individuals who had never had a permit denied or revoked in Alaska. It was thought that this restriction would have no impact on the recognition of permits.

Unfortunately, the language has led to a refusal by the State of Texas to recognize Alaska permits because Alaska's law imposes limits on the recognition of Texas permits while Texas would impose no such limitation on the recognition of Alaska permits. The likelihood that, in reality, a Texas permit would not be recognized due to the provision in question is just about as unlikely as an Alaskan traveling to the lower 48 to circumvent the Alaska permit law. However, the fact remains that the SB 242 amendment has created a barrier to the recognition of Alaska permits. The repeal of this language by **Senate Bill 152** will open the door to greater recognition of Alaska permits.

I will provide you with a copy of the letter from the Texas Department of Public Safety (DPS) to Alaska DPS which lays out the problem. More importantly, I will also provide you with information on the issuance criteria of the eleven states which issue concealed handgun permits to non-residents. It is obvious, after reviewing this material, that should an Alaskan go to the trouble of traveling to another state, it is highly unlikely that person would be able to obtain an out-of-state permit. The issuance standards are generally at least as strict in each of the other states and fingerprint-based background checks are performed in virtually all cases.

With all due respect to those who raised questions last session, in reality, the evidence suggests that their concerns, while sincere, are not warranted. Further, since any person who can lawfully own and possess a firearm can legally carry *openly* in Alaska, an individual who had a permit denied or revoked in Alaska for a non-prohibiting offense could simply carry openly in Alaska without going to all the trouble and expense of obtaining another state's permit.

The second issue addressed by **Senate Bill 152** involves reciprocity agreements with other states. Although the State of Alaska now recognizes all other states' permits and is not required to enter into reciprocity agreements, some other states still require agreements for them to be able to recognize Alaska permits. SB 152 would require the Alaska Department of Safety to enter into reciprocity agreements with other states when it is necessary to benefit Alaska permit holders. Such agreements will only be required in rare cases and, thus, the cost to the Department in time and resources should be negligible.

Please let me know how I can be of assistance in the effort to pass **Senate Bill 152**.

Sincerely,

Brian Judy  
Alaska State Liaison

# TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 NORTH LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

[www.txdps.state.tx.us](http://www.txdps.state.tx.us)



THOMAS A. DAVIS, JR.  
DIRECTOR

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ASST. DIRECTOR

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ASST. DIRECTOR



COMMISSION  
COLLEEN MCINUGH  
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ROBERT H. MOY  
JAMES B. FRANCIS, JR.  
COMMISSIONERS

June 28, 2002

Delbert Smith  
Deputy Commissioner  
Alaska Department of Public Safety  
5700 E. Tudor Road  
Anchorage, Alaska 99507

Re: Concealed Handgun Reciprocity

Dear Commissioner Smith:

The Department recently received notice of "Senate Bill 242 am H" passed by the Alaska legislature. We have reviewed the bill to determine if it is now possible for Texas and Alaska to enter into a reciprocity agreement concerning concealed handgun licenses. S.B. 242 am H allows the state of Alaska to recognize a concealed handgun license from another state as long as the license holder has not had an application for a handgun permit rejected in Alaska or had a handgun permit revoked or suspended by Alaska. Texas Government Code Section 411.173(b)(2) allows the Department to enter into a reciprocity agreement if the other state recognizes a license issued in Texas.

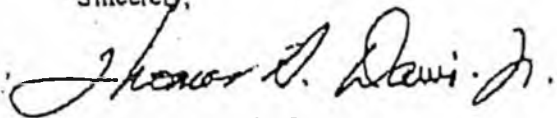
After reviewing both statutes, we are trying to determine if Alaska will recognize all licenses issued by Texas. For instance, if Texas and Alaska were to enter into a reciprocity agreement, would Alaska recognize the following Texas concealed handgun licenses:

- 1) if the Texas licensee is currently eligible for a Texas license, but not an Alaska permit and has never applied for an Alaska permit;
- 2) if the Texas licensee is currently eligible for a Texas license, but not an Alaska permit and has had an application in Alaska rejected or had a permit revoked or suspended by Alaska;
- 3) if the Texas licensee is currently eligible for a Texas license and an Alaska permit, but applied for an Alaska permit when he was not eligible and was rejected, or had an Alaska permit revoked because he was not eligible at the time.

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COURTESY • SERVICE • PROTECTION

I will await your response before proceeding any further in regard to an agreement between Alaska and Texas. If you have any questions concerning the Texas concealed handgun statute, please contact Louis Beaty at 512-424-5836.

Sincerely,



Thomas A. Davis, Jr.  
Director

TAD:lab

EQUAL OPPORTUNITY EMPLOYER  
COURTESY • SERVICE • PROTECTION

\*\* TOTAL PAGE.03 \*\*

Aug-13-02

~~18~~ 13 2002

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

Del Smith, Commissioner

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF ALASKA STATE TROOPERS

Permits and Licensing Unit  
5700 East Tudor Road  
Anchorage, Alaska 99507  
Telephone (907) 289-0392  
Facsimile (907) 289-5609

Thomas A. Davis, Jr.  
Director  
Texas Department of Public Safety  
5805 North Lamar Blvd., Box 4087  
Austin, Texas 78773-0001

Dear Mr. Davis:

Our Department is in receipt of your letter dated June 28, 2002 revisiting the possibility of a reciprocal agreement in reference to concealed handgun permits. "Senate Bill 242 am H" did amend Alaska Statute 18.65.748 which now authorized the State of Alaska to recognize concealed handgun permits from all other States.

After reviewing your letter and the three proposed conditions, we have determined that we will recognize licenses issued by the State of Texas if a person holds a valid Texas permit and if the person has not had an application for a concealed handgun permit rejected in the State of Alaska because the person was unqualified under AS18.65.705 or had a concealed handgun permit revoked or suspended by this state.

We would not recognize a Texas permit under the other two circumstances you listed. Based on the language of our new law, no reciprocity agreement is needed.

Please feel free to contact me if you have further questions concerning the concealed handgun permit program.

Sincerely,



Lieutenant Julia P. Grimes  
Alaska State Troopers

JG:mbf

Cc: Representative Terry Keel

**PERMIT ISSUANCE CRITERIA  
FOR STATES WHICH ISSUE  
CONCEALED WEAPON PERMITS TO NON-RESIDENTS  
(As compared to Alaska's qualifications)**

*Alaska* - fingerprints required with application

- 1) 21 years of age
  - 2) Eligible to own/possess under federal law\*
  - 3) Not been convicted of two or more Class A misdemeanors within six years
  - 4) Not in last three years ordered to complete alcohol/substance abuse program
- 

*Arizona* - fingerprints required with application

- 1) 21 years of age
- 2) No felony indictment or conviction
- 3) Does not suffer from mental illness nor has been adjudicated mentally incompetent
- 4) Fingerprints to FBI for national criminal history check

*Florida* - fingerprints required with application

- 1) 21 years of age
- 2) Eligible to own/possess under federal law
- 3) No misdemeanor crime of violence in last three years
- 4) Not committed for substance abuse or convicted of a crime relating to controlled substances within three years
- 5) Does not chronically and habitually use alcohol, as provided by Florida law

*Idaho* - fingerprints required with application

- 1) 21 years of age
- 2) Eligible to own/possess under federal law
- 3) No misdemeanor crime of violence in last three years
- 4) Not an unlawful user of or addicted to controlled substance
- 5) Not currently suffering from mental illness nor has been adjudicated mentally ill
- 6) Not subject to protection order

*Indiana* - fingerprints required with application

- 1) 18 years of age
- 2) No felony conviction
- 3) Must be of good character and reputation
- 4) Applicant must have a "proper reason" to carry a handgun
- 5) Issuance to non-residents is limited to those who have a regular place of business or employment in Indiana

*Iowa* - fingerprints not mentioned in statute but criminal history check specifically required

- 1) 18 years of age
- 2) No felony conviction
- 3) No history of repeated acts of violence
- 4) Not addicted to the use of alcohol or any controlled substance
- 5) Issuing officer must reasonably determine the applicant does not constitute a danger to any person
- 6) Applicant must "reasonably justify" why he needs to carry a handgun

*Maine* - fingerprints may be required with application

- 1) 18 years of age
- 2) No felony conviction nor charges pending
- 3) Not been convicted of three or more misdemeanors in last five years
- 4) Not a drug user and not convicted in last five years of marijuana possession nor other drug crimes
- 5) Not convicted of possession of a firearm in a bar in last five years
- 5) Not been the subject of an investigation regarding domestic violence
- 6) Numerous other criteria which essentially mirror federal law

*Maryland* - fingerprints required with application

- 1) 18 years of age
- 2) No felony conviction
- 3) Has not exhibited a propensity for violence or instability
- 4) Not convicted of any offense involving possession, use or distribution of controlled substance
- 5) Not under legitimate medical direction nor an alcoholic
- 6) Applicant must have "good and substantial reason" to carry a handgun

*Nevada* - fingerprints required with application

- 1) 21 years of age
- 2) Eligible to own/possess under federal law
- 3) Not convicted of a misdemeanor crime of violence in last three years
- 4) Not convicted of DUI nor committed for alcohol or drug treatment in last five years
- 5) Not convicted of a crime involving domestic violence nor subject to a dv restraining order

*North Dakota* - fingerprints required with application

- 1) 18 years of age
- 2) Eligible to own/possess under federal law
- 3) Not convicted of a Class A misdemeanor crime of violence in last five years
- 4) Not been diagnosed and confined or committed as mentally ill or deficient in last three years
- 5) Non-resident application requires a LOCAL background check and approval from local law enforcement in the applicant's county (or city, borough, etc...) of residence

*Utah* - fingerprints required with application

- 1) 21 years of age
- 2) Eligible to own/possess under federal law
- 3) No conviction for crime of violence nor offense involving moral turpitude or domestic violence
- 4) No conviction for offense involving use of alcohol or controlled substances
- 5) Has not been adjudicated mentally ill
- 6) Is not a danger to self or others as demonstrated by specific evidence

*Washington* - fingerprints required with application

- 1) 21 years of age
- 2) No felony convictions
- 3) No domestic violence misdemeanor convictions since July 1, 1993
- 4) Has not been ordered to forfeit a firearm in the last year for, among other reasons, possessing a firearm while under the influence of alcohol or any drug
- 5) Has not been involuntarily committed for mental health treatment
- 6) No outstanding felony or misdemeanor arrest warrants
- 7) Not subject to provisions of protective order

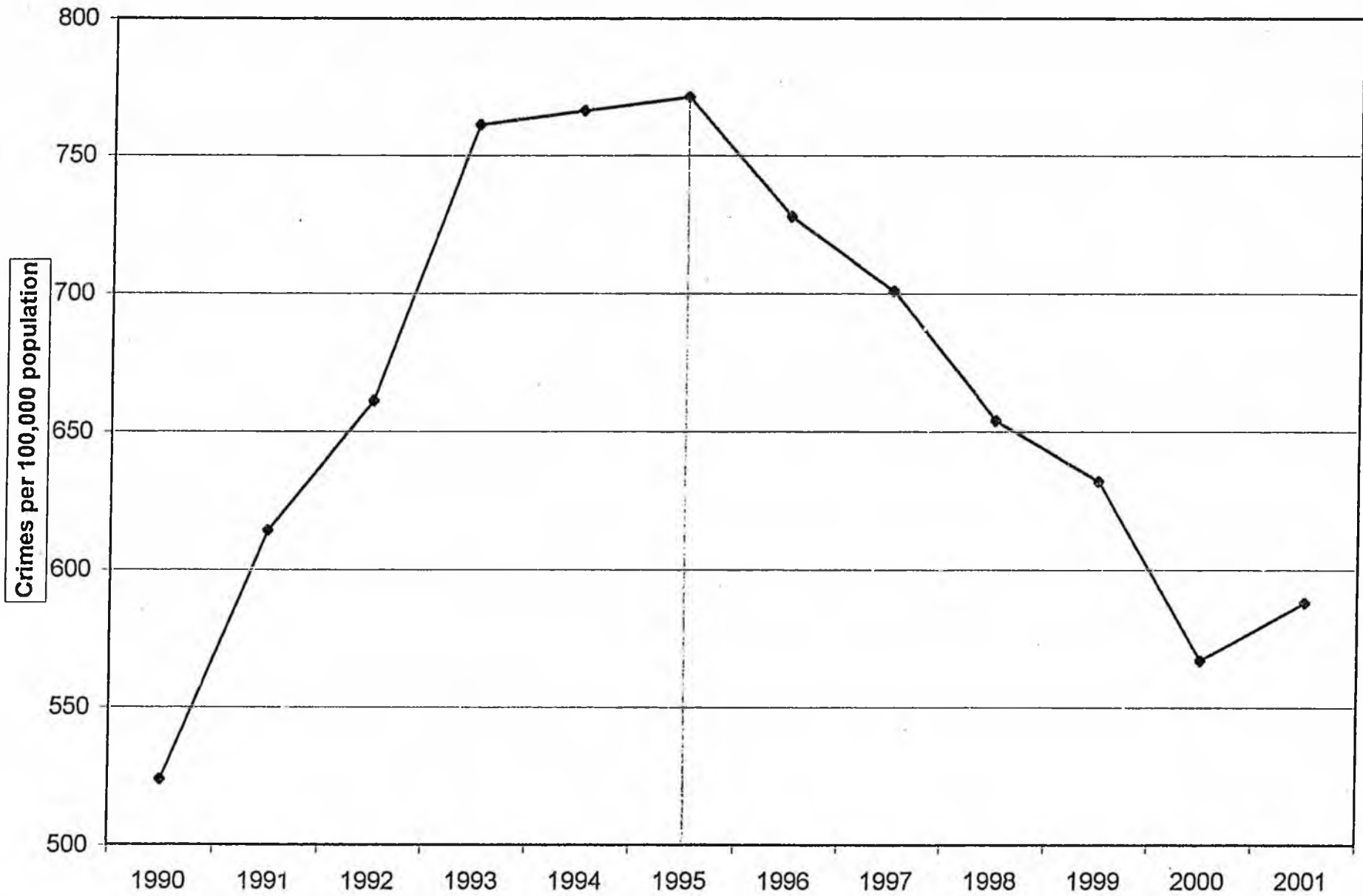
\* *Federal law* (18 U.S.C. §922 (g)) prohibits possession of a firearm by any person:

- 1) who has been convicted of a crime punishable by imprisonment for more than one year (generally includes any felony);
- 2) who is a fugitive from justice;
- 3) who is an unlawful user of or addicted to any controlled substance;
- 4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
- 5) who is an illegal alien or who has been admitted under a nonimmigrant visa;
- 6) who has been dishonorably discharged from the Armed Forces;
- 7) who has renounced his US citizenship; or
- 8) who has been convicted of a misdemeanor crime of domestic violence.

# Alaska Crime Rates

## Violent Crime

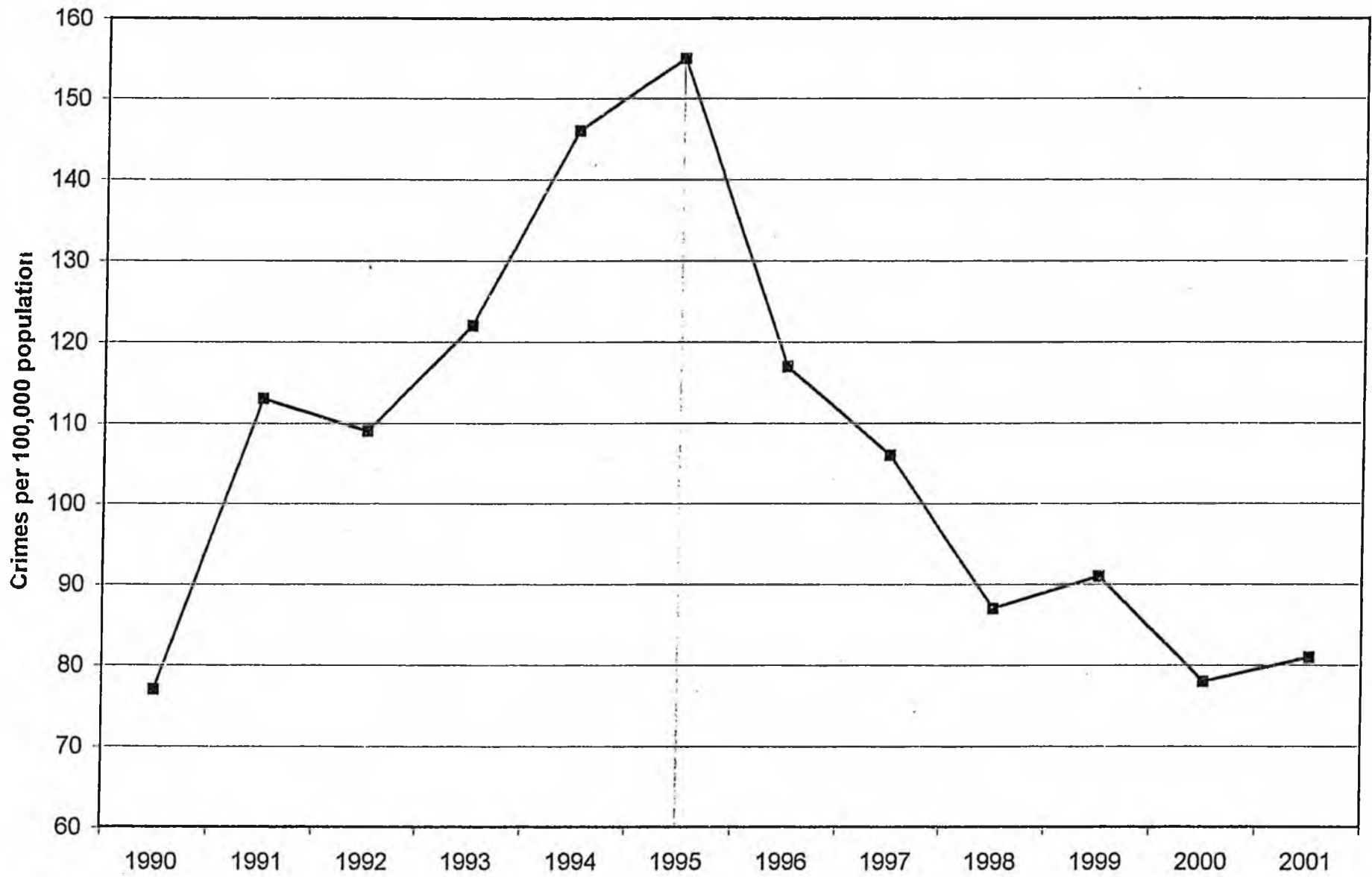
Sources: FBI and Bureau of Justice Statistics



# Alaska Crime Rates

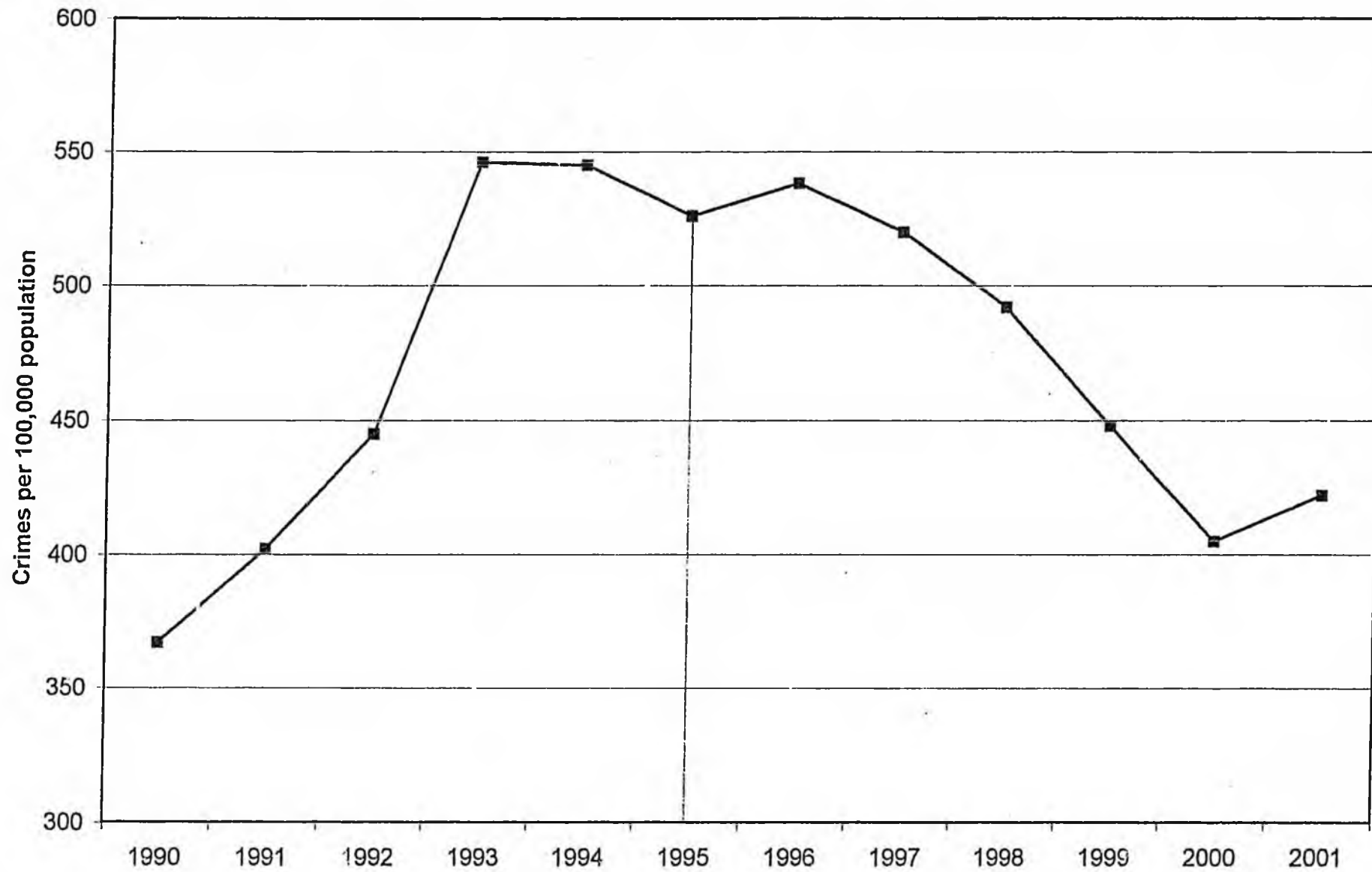
## Robbery

Sources: FBI and Bureau of Justice Statistics



# Alaska Crime Rates

**Aggravated Assault**  
Sources: FBI and Bureau of Justice Statistics





NATIONAL RIFLE ASSOCIATION OF AMERICA  
INSTITUTE FOR LEGISLATIVE ACTION  
555 CAPITOL MALL., SUITE 625  
SACRAMENTO, CALIFORNIA 95814  
(916)446-2455 voice ■ (916)448-7469 fax

STATE & LOCAL AFFAIRS DIVISION  
BRIAN JUDY, ALASKA STATE LIAISON

March 25, 2003

Senator Gary Stevens  
State Capitol  
Juneau, AK 99801-1182

Dear Senator Stevens:

On behalf of the more than 24,000 Alaska members of the National Rifle Association, let me take this opportunity to urge your **support for Senate Bill 152**. SB 152 would help, in two ways, to ensure that other states recognize Alaska concealed handgun permits.

First, **Senate Bill 152** would repeal language which was put into the code last session as an amendment to a bill which was introduced to clarify the recognition of concealed handgun permits from other states. Senate Bill 242 (2002) was intended to simplify the recognition process by plainly recognizing all permits issued by other states. Supporters of the bill accepted an amendment late in the legislative process which has caused at least one state to refuse to recognize Alaska permits.

A concern was raised last year that Alaska residents who had a permit denied or revoked could travel to another state which issues permits to non-residents, obtain a permit and travel back to Alaska and carry under the out-of-state permit. Although supporters of SB 242 felt such was a highly unlikely scenario, an amendment was accepted to limit recognition of out-of-state permits to those held by individuals who had never had a permit denied or revoked in Alaska. It was thought that this restriction would have no impact on the recognition of permits.

Unfortunately, the language has led to a refusal by the State of Texas to recognize Alaska permits because Alaska's law imposes limits on the recognition of Texas permits while Texas would impose no such limitation on the recognition of Alaska permits. The likelihood that, in reality, a Texas permit would not be recognized due to the provision in question is just about as unlikely as an Alaskan traveling to the lower 48 to circumvent the Alaska permit law. However, the fact remains that the SB 242 amendment has created a barrier to the recognition of Alaska permits. The repeal of this language by **Senate Bill 152** will open the door to greater recognition of Alaska permits.

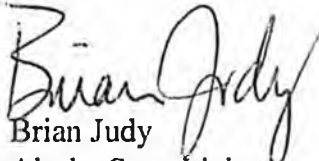
Attached is a copy of the letter from the Texas Department of Public Safety (DPS) to Alaska DPS which lays out the problem. More importantly, I will also provide you with information on the issuance criteria of the eleven states which issue concealed handgun permits to non-residents. It is obvious, after reviewing this material, that should an Alaskan go to the trouble of traveling to another state, it is highly unlikely that person would be able to obtain an out-of-state permit. The issuance standards are generally at least as strict in each of the other states and fingerprint-based background checks are performed in virtually all cases.

With all due respect to those who raised questions last session, in reality, the evidence suggests that their concerns, while sincere, are not warranted. Further, since any person who can lawfully own and possess a firearm can legally carry *openly* in Alaska, an individual who had a permit denied or revoked in Alaska for a non-prohibiting offense could simply carry openly in Alaska without going to all the trouble and expense of obtaining another state's permit.

The second issue addressed by **Senate Bill 152** involves reciprocity agreements with other states. Although the State of Alaska now recognizes all other states' permits and is not required to enter into reciprocity agreements, some other states still require agreements for them to be able to recognize Alaska permits. SB 152 would require the Alaska Department of Safety to enter into reciprocity agreements with other states when it is necessary to benefit Alaska permit holders. Such agreements will only be required in rare cases and, thus, the cost to the Department in time and resources should be negligible.

It is for these reasons that the NRA requests your support for **Senate Bill 152**.

Sincerely,

  
Brian Judy  
Alaska State Liaison

SB

158

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# Audit Report

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DEPARTMENT OF PUBLIC SAFETY  
COUNCIL ON DOMESTIC VIOLENCE AND  
SEXUAL ASSAULT

---

October 31, 2001

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Audit Control Number:

12-20014-02

Division of Legislative Audit  
P.O. Box 113300, Juneau, Alaska 99811-3300

# LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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## DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from the Senate and two from the House. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Juneau, Anchorage, or our web site <http://www.legis.state.ak.us/legaud/web/default.htm>.

### BUDGET AND AUDIT COMMITTEE

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**Senator Dave Donley**  
**Senator Lyman Hoffman**  
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**Representative Ken Lancaster**  
**Representative Eldon Mulder**  
**Representative Bill Williams (alternate)**  
**Representative John Davies (alternate)**

### DIVISION OF LEGISLATIVE AUDIT

**Pat Davidson, CPA**  
**Legislative Auditor**

**P.O. Box 113300**  
**Juneau, AK 99811-3300**

**(907)465-3830, Juneau**  
**(907)561-1445, Anchorage**  
**(907)465-2347, Juneau Fax**  
**(907)561-1452 Anchorage Fax**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/26/03

FURTHER: Health, Education and Social Services

Date of 5-Day Notice: 4/2/03  
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/11/03

State Affairs Committee considered      SENATE BILL NO. 158

### SB 158 MOVE DOMESTIC VIOLENCE COUNCIL TO DHSS

"An Act transferring the Council on Domestic Violence and Sexual Assault from the Department of Public Safety to the Department of Health and Social Services; and providing for an effective date."

and recommends:

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

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DPS	4/8/03	✓		1
DHSS	4/8/03	✓		2

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			X	
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>				
CHAIR: <i>[Signature]</i>			X	

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 158  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
Title: Move Council on Domestic Violence & Sexual Assault from DPS to H&SS BRU: Council on Domestic Violence and Sexual Assault (CDVSA)  
Sponsor: Senate Finance Committee Component: CDVSA and Batterers Intervention Program (BIP)  
Requester: Senate State Affairs Component No.: 521 & 164

**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	(523.9)					
Travel	(61.5)					
Contractual	(1,255.3)					
Supplies	(12.3)					
Equipment	(6.2)					
Land & Structures						
Grants & Claims	(8,075.6)					
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>(9,934.8)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	(4,960.6)					
1004 GF						
1007 I/A Rcpts	(765.4)					
1050 PFD Fund						
1071 PFD Crim	(4,208.8)					
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>(9,934.8)</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	-8	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

This bill moves the Council on Domestic Violence and Sexual Assault (AS 18.66.010) and the Batterers Intervention Program from the Department of Public Safety to the Department of Health & Social Services.

Prepared by: Juanita Hensley, Special Assistant Phone 465-2649  
Division: Office of the Commissioner Date/Time 4/8/03 9:41 AM  
Approved by: William L. Tandeske, Commissioner Date 4/8/2003  
Agency: Department of Public Safety

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: \_\_\_\_\_  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): \_\_\_\_\_

Title MOVE DOMESTIC VIOLENCE COUNCIL TO DHSS

BRU Administrative Services  
 Component Commissioner's Office

Sponsor SENATE FINANCE COMMITTEE

Requester SENATE (STA)

Component No. 317

**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	523.9	523.9	523.9	523.9	523.9	523.9
Travel	61.5	61.5	61.5	61.5	61.5	61.5
Contractual	1,255.3	1,255.3	1,255.3	1,255.3	1,255.3	1,255.3
Supplies	12.3	12.3	12.3	12.3	12.3	12.3
Equipment	6.2	6.2	6.2	6.2	6.2	6.2
Land & Structures						
Grants & Claims	8,075.6	8,075.6	8,075.6	8,075.6	8,075.6	8,075.6
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>9,934.8</b>	<b>9,934.8</b>	<b>9,934.8</b>	<b>9,934.8</b>	<b>9,934.8</b>	<b>9,934.8</b>

<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts	4,960.6	4,960.6	4,960.6	4,960.6	4,960.6	4,960.6
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(1071 PFD Criminal & 1007 I/A)	4,974.2	4,974.2	4,974.2	4,974.2	4,974.2	4,974.2
<b>TOTAL</b>	<b>9,934.8</b>	<b>9,934.8</b>	<b>9,934.8</b>	<b>9,934.8</b>	<b>9,934.8</b>	<b>9,934.8</b>

Estimate of any current year (FY2003) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is Included In the Governor's FY 2004 budget proposal:

**POSITIONS**

POSITIONS	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Full-time	8	8	8	8	8	8
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 SB 158 transfers the Council on Domestic Violence and Sexual Assault (AS 18.66.010) from Public Safety to the Department of Health and Social Services. The transfer includes grant funds for the Batterers Intervention Program.  
 The Council will be part of the DHSS Boards and Commissions BRU.  
 The other funding line includes:  
 1071 PFD Criminal receipts of \$4208.8  
 1007 Interagency Receipts of \$765.4

Prepared by: Janet Clarke, Director  
 Division: Administrative Services  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone 465-1630  
 Date/Time 04/08/2003  
 Date 04/08/2003



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### Sponsor Statement for Senate Bill 158

**“An Act transferring the Council on Domestic Violence and Sexual Assault from the Department of Public Safety to the Department of Health and Social Services; and providing for an effective date.”**

Senate Bill 158 would transfer the Council on Domestic Violence and Sexual Assault (CDVSA) to the Department of Health and Social Services (DHSS). Alaska Statute 18.66 established the council under the Department of Public Safety in 1981. This statute gives the council the authority “... *to provide for planning and coordination of services to victims of domestic violence or sexual assault or to their families and to perpetrators of domestic violence and sexual assault and to provide for crisis intervention and prevention programs.*” This coordination includes providing emergency safe housing, counseling, education/outreach services, and technical assistance to programs such as Advocates for Victims of Violence, Abused Women’s Aid In Crisis, Arctic Women in Crisis, Alaska Women’s Resource Center, South Peninsula Women’s Services, Standing Together Against Rape and Sitkans Against Family Violence to name a few.

The mission of DHSS is to “*promote and protect the health and well-being of Alaskans.*” DHSS has in place established programs and services that will be beneficial to the Council on Domestic Violence that include:

- Division of Administrative Services that deals with federal granting agencies
- Division of Alcoholism and Drug Abuse to assist in developing prevention and education
- Division of Family and Youth Services that have 29 field offices for child protective services in place

SB 158 would create a closer working relationship between CDVSA and the DHSS as required in AS 18.66.050 (12) & (14) for developing standards, procedures and continuing education on domestic violence. A 2002 sunset audit review performed by Legislative Budget and Audit showed that this had not yet been accomplished. Adoption of this bill will provide adequate resources to enhance their capabilities and become a more efficient CDVSA program under DHSS.

FRANK H. MURKOWSKI  
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

March 17, 2003

Mr. William C. Bobrick, Chair  
Council on Domestic Violence and Sexual Assault  
Department of Public Safety  
P.O. Box 111200  
Juneau, AK 99811-1200

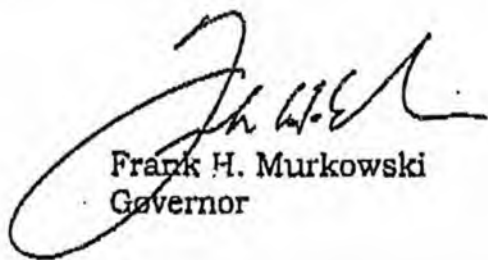
Dear Mr. Bobrick:

Thank you for writing to me regarding the Council on Domestic Violence and Sexual Assault and its location in the Department of Public Safety.

As you know through the budget preparation cycle, that issue was addressed and the council will remain in the Department of Public Safety. In this period of tighter budgets, I appreciate the efforts of the council to seek funding from federal and private sources to support Alaska victims of domestic violence and sexual assault.

Thank you and the council members for your dedication.

Sincerely yours,

  
Frank H. Murkowski  
Governor

cc: Commissioner William Tandeske, Department of Public Safety

RECEIVED  
CDVSA

MAR 19 2003

Postmark 

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

## Main Office & Legal Advocacy Project

130 Seward Street, Suite 209

Juneau, Alaska 99801

Phone: (907) 586-3650

Fax: (907) 463-4493

www.andvsa.org

## Pro Bono Project

P.O. Box 6631

Sitka, Alaska 99835

Phone: (907) 747-7545

Fax: (907) 747-7547

### Organizational

#### Members:

#### Anchorage

AWAIC

AWRC

STAR

#### Barrow

AWIC

#### Bethel

TWC

#### Cordova

CFRC

#### Dillingham

SAFE

#### Emmonak

EWS

#### Fairbanks

IAC

#### Homer

SPWS

#### Juneau

AWARE

#### Kenai/Soldotna

K/SWRCC)

#### Ketchikan

WISH

#### Kodiak

KWRCC

#### Kotzebue

MFCC

#### Nome

BSWG

#### Palmer

AFRC

#### Seward

SCS

#### Sitka

SAFV

#### Unalaska

USAFV

#### Valdez

AVV

To: Senate State Affairs Committee  
From: Lauree Hugonin *LH*  
Date: 4/8/03  
Re: CDVSA Funding Sources

The Council on Domestic Violence and Sexual Assault (CDVSA) funds community based victim advocacy programs, community and prison based batterers intervention programs and statewide initiatives to improve the systemic response to violence against women.

### Possible funding sources for community based victim advocacy programs

**General funds**--historically state general funds have been used. Beginning in the mid-90's general fund dollars were systematically reduced each year and replaced with pfd felon/misdemeanant funds. All general fund dollars were deleted from this component during FY03.

**PFD Felon/Misdemeanant funds**--In 1993, AS 43.23.028 was amended to allow these funds to be used for grants for the operation of domestic violence and sexual assault programs. In the proposed budget for FY04, budget language would allow up to 10% of this funding source to be used for operations and grant administration.

**Alcohol tax dollars**--beginning in the proposed FY04 budget, \$376,000 are allocated to CDVSA for programs.

**Family Violence Prevention and Services Act (FVPSA)**--this is federal money distributed to states on a per capita basis. The base amount is \$600,000 to each state and then a population formula is used to determine from the total the remaining amount allocated to each state. Alaska receives approximately \$721,000 in FVPSA funds. CDVSA uses 5% of this funding source for administrative costs and uses the rest for grants.

**Victims of Crime Act (VOCA)**--this is federal money distributed to states in a population formula based on the amount appropriated by Congress from the federal crime fund. Each federal year allocation of VOCA funds can be expensed over a 3 state fiscal year period. CDVSA used 5% of this funding for administrative costs and uses the rest for grants.

**Rape Prevention/Sexual Assault Prevention (RPE/SAP)**--this is federal money distributed to states on a formula basis through the Center for Disease Control. 25% of the funding must be used for prevention/education activities to reach youth aged 11-19. It is allocated between grants to community programs and statewide education/awareness campaigns.

**Temporary Assistance for Needy Families (TANF)**--in 2000, the legislature determined that federal TANF dollars could be used to fund services to victims of domestic violence and replaced general fund dollars with TANF funds. TANF funds were available due to a pool of "TANF savings" that have since been

spent and the proposed FY04 budget deletes this source from CDVSA's funding allocations.

**Possible funding for community based batterers intervention programs (bips)**

**General funds**--the first year bips were placed into a separate bru, general funds were used to fund the programs. The proposed FY04 budget deletes general funds from the bips component.

**PFD felon/misdemeanant funds**--have been used to fund the programs

**Grants to encourage arrest**--this is a federal competitive grant. It is not distributed to states based on a formula. CDVSA must submit a grant application and compete against other potential grantees for the grant. CDVSA was awarded a grant for one year that included funds for bips.

**Possible Funding for prison based batterers intervention programs**

The department of corrections rsa's funds to CDVSA to grant to non-profit programs that provide prison programs in a couple of areas of the state.

**Possible funding for statewide initiatives**

**VOCA**--CDVSA has entered into a rsa with the department of corrections for the last couple of years to provide funds for their victim services coordinator.

In 1994 as part of the Crime Control bill, Congress passed the Violence Against Women Act (VAWA). VAWA provides for grants to states and local communities to combat violence against women. CDVSA is Alaska's designated VAWA Administrator which in part means all VAWA funds coming to the state are distributed through CDVSA and CDVSA is notified when non-state organizations receive VAWA funds (i.e. tribal entities or local units of government or non-profit groups).

In 2000, VAWA was reauthorized. One of the grant programs is the **Services\* Training\* Officers\* Prosecutors (STOP)** program. It is primarily a formula driven program based on a state's population. VAWA requires STOP funding to be used for any of eleven specific purposes in three areas. 25% of the funds must go toward law enforcement activities, 25% toward prosecution, 30% for strengthening victim services, 5% for judiciary, and 15% is discretionary to be spread between the aforementioned components. Supplantation of state funds is prohibited.

Through the STOP program, CDVSA has distributed over \$1.1 million dollars to the department of public safety; over \$1.1 million to the department of law; over \$290,000 to the Alaska court system; and slightly over \$1.8 million to victim services and discretionary projects. CDVSA kept its administrative costs to a little over \$236,000 or 5% of the total amount distributed.

Mentioned under bips funding, **Grants to Encourage Arrest** is another VAWA grant program. It is a competitive grant and is not formula driven. Grants to encourage arrest encourage jurisdictions to implement mandatory or pro-arrest



# City and Borough of Sitka

## POLICE DEPARTMENT

304 Lake Street, Room 102 • Sitka, Alaska 99835

Robert C. Gorder  
Chief of Police

Business 747-3245  
Fax 747-1075

April 7, 2003

Senator Gary Stevens  
State Capitol, Rm 417  
Juneau AK 99801-1182

Re: SB 158

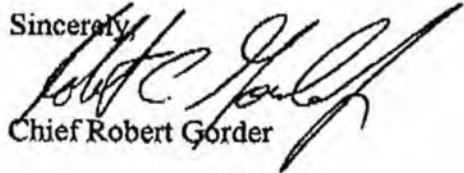
Dear Senator Stevens:

Please accept this letter as support for local Sitkans Against Family Violence (SAFV), our local domestic violence shelter's position to keep the Council on Domestic Violence and Sexual Assault (CDVSA) within the Department of Public Safety (DPS).

Although I can understand the logic of moving a mostly victim's services and support organization to Health and Social Services, I believe the current arrangement has and continues to enjoy success and obtains more public awareness under DPS. I believe the focus of criminalizing domestic violence and sexual assault is more effective and sends a clear message to Alaskans under DPS.

As the saying goes, "If it ain't broke, don't fix it." Thank you for the opportunity to voice my opinion. If I can be of any assistance, please do not hesitate to contact me.

Sincerely,



Chief Robert Gorder

Cc: Grace Brooks, Executive Director, SAFV

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

Main Office & Legal Advocacy Project  
130 Seward Street, Suite 209  
Juneau, Alaska 99801  
Phone: (907) 586-3650  
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Sitka, Alaska 99835  
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## Organizational

### Members:

Anchorage  
AWAIC  
AWRC  
STAR

Barrow  
AWIC

Bethel  
TWC

Cordova  
CFRC

Dillingham  
SAFE

Emmonak  
EWS

Fairbanks  
IAC

Homer  
SPWS

Juneau  
AWARE

Kenai/Soldotna  
K/SWRCC)

Ketchikan  
WISH

Kodiak  
KWRCC

Kotzebue  
MFCC

Nome  
BSWG

Palmer  
AFRC

Seward  
SCS

Sitka  
SAFV

Unalaska  
USAFV

Valdez  
AVV

Governor Frank Murkowski  
Office of the Governor  
P.O. Box 110001  
Juneau, Alaska 99811

February 28, 2003

Dear Governor Murkowski:

I am writing to you on behalf of the Alaska Network on Domestic Violence and Sexual Assault (Network). The Network is Alaska's statewide coalition of nonprofit programs which provide immediate safety services to victims of domestic violence and sexual assault, their children, and to the perpetrators of these crimes.

In December we wrote you regarding the composition of the Council on Domestic Violence and Sexual Assault (Council) in the Department of Public Safety. Today, we want to bring to your attention our strong belief that the Council should stay housed within the Department of Public Safety.

When the Council was first formed in 1981, the legislature took a long hard look at the many issues involved in what a state's response to domestic violence and sexual assault should be. The legislature recognized these were criminal issues and correctly placed the state's coordinating council for responding to these crimes in the Department of Public Safety. Alaska said to domestic violence and sexual assault victims that the crimes perpetrated against them were going to be taken seriously and *their* safety was a priority of public safety.

As you are aware, in 1994 Congress passed the omnibus crime act which included the violence against women's act. Most of the federal funds distributed to states to combat domestic violence and sexual assault go through the Violence Against Women Office which was established in the Department of Justice. Thirteen years after Alaska recognized these issues as crimes, the federal government did as well. The message was sent to millions of victims across the nation, that their safety was an integral part of the public safety.

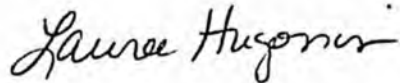
Maintaining the Council in the Department of Public Safety sends strong messages--it says to the victims of these acts that they are crimes and criminal justice help is available; it says to the perpetrators that the state has a vested interest in stopping their criminal activities; it says to all citizens that the state considers domestic violence and sexual assault serious crimes that must be addressed.

We appreciate your strong interest in protecting people from these heinous crimes. We've seen that interest most recently expressed in your selection of Mr. Tandeske

for the position of Commissioner for the Department of Public Safety. During his prior tenure with the Department he was firmly committed to combatting the crimes of domestic violence and sexual assault and we expect that he will continue to vigorously work to improve the state's response to these crimes.

Please allow the Council to continue to be housed within the Department of Public Safety. Do not step away from the philosophy that acknowledges to victims of domestic violence and sexual assault that they are victims of crimes and their safety is important to the state's public safety.

Sincerely,



Lauree Hugonin  
Executive Director

cc. Jim Clark, Chief of Staff  
Bill Tandeske, Commissioner of Public Safety

February 28, 2003

The Honorable Frank Murkowski  
Governor  
P.O. Box 110001  
Juneau, AK 99811-0001

Dear Governor Murkowski:

The Council on Domestic Violence and Sexual Assault appreciates your strong support for the safety of Alaska's men, women, and children. Created in 1981, the Council has been very appropriately located in the Department of Public Safety for 22 years. The most dangerous call for any law enforcement officer is to respond to a domestic violence incident. Thirteen percent of law enforcement officers killed in Alaska have been in response to domestic violence incidents.

There is currently a proposal to move the Council to the Department of Health and Social Services. This undermines the main purpose of the Council which is to provide for the immediate safety of victims of the crimes of domestic violence and sexual assault. The proposed move implies this is a simple health or social service issue, when in fact there are complex critical issues of safety and lethality. The lives of men, women, children, troopers, and police officers are at stake every day. Part of law enforcement is also service for crime victims. As such, the Council belongs in the Department of Public Safety.

The Council is comprised of the commissioners or their designees from the departments of Public Safety, Law, Education and Early Development, and Health and Social Services, as well as three public members who are appointed by the Governor after consultation with the Alaska Network on Domestic Violence and Sexual Assault. All Council members have equal influence in important policy and funding decisions for the 21 domestic violence and sexual assault programs statewide and 15 batterers' intervention programs.

An argument has been made that more federal funds would be available if the Council were housed in the Department of Health and Social Services. The Council diligently and actively seeks new federal grants annually. We currently receive \$1,470,000 in Temporary Assistance to Needy Families (TANF) funds, \$30,000 in Sexual Assault Prevention funds (SAP) and \$92,114 in Rape Prevention and Education funds (RPE) from the Department of Health and Social Services. This close relationship will continue and expand as we tap the expertise of Commissioner Gilbertson through his department's representation on the Council.

The Honorable Frank Murkowski  
February 28, 2003  
Page 2

For other federal funding, the Council receives one federal grant from the United States Department of Health and Human Services through the Family Violence and Prevention Services Act (FVPSA). However, the majority of our federal funding comes from numerous grants from the Department of Justice. These include Victims of Crime Act (VOCA) and Violence Against Women Act (VAWA)—which includes many subgrants: Rural Domestic Violence and Child Victimization Enforcement; Grants to Encourage Arrest; and Services \*Training \*Officers \*Prosecutors funds (S\*T\*O\*P). The S\*T\*O\*P funds are distributed by federal statute to Law Enforcement, Prosecution, Courts, Victim Services, and Discretionary.

The Council has a superb track record for procuring and distributing federal funds that are then granted to other departments. We are committed to sharing federal funds with other state departments to ensure a coordinated community response to the crimes of domestic violence and sexual assault. These funds have been given to the Department of Public Safety, the Department of Law, the Department of Corrections, and the Alaska Court System. The Council continually seeks every available funding opportunity.

The Council further expanded our ability to procure private funds by embarking on an ambitious capital improvement project last year that netted \$1.7 million in federal and private funds to make long overdue safety, structural, and equipment improvements and repairs in shelters statewide. The Rasmuson Foundation, Denali Commission, and Wells Fargo all made significant contributions to this effort, and expressed interest in ongoing relationships. All cited the importance of safe shelters in communities statewide to ensure Alaska's men, women, and children in peril have secure, safe, healthy places to go.

The Council on Domestic Violence and Sexual Assault provides a critical public safety function for Alaska's most vulnerable residents. We firmly believe we belong in the Department of Public Safety, and appreciate your support in keeping us there.

Sincerely,

William D. Bobrick  
Chair

FRANK H. MURKOWSKI  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

March 17, 2003

Ms. Lauree Hugonin  
Executive Director  
Alaska Network on Domestic Violence  
and Sexual Assault  
130 Seward Street, Suite 209  
Juneau, AK 99801

Dear Ms. Hugonin:

Thank you for writing to me regarding the Council on Domestic Violence and Sexual Assault.

During the budget preparation period the issue of location for the council was addressed and it was determined to leave the council within the Department of Public Safety. There had been discussion that location in the Department of Health and Social Services might provide a benefit in accessing federal funds. The council felt that the Department of Public Safety was the proper location, and they would work closely with the Department of Health and Social Services on funding issues.

Thank you also for your support of Commissioner Tandeske. He is dedicated to law enforcement in Alaska and will lead the state's fight against crimes of domestic violence and sexual assault.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski".

Frank H. Murkowski  
Governor

cc: Commissioner William Tandeske, Department of Public Safety

RECEIVED  
CDVSA

MAR 15 2003

Postmark

**Marcia Lynn McKenzie**  
PO Box 33977 Juneau, AK 99803  
Phone: (907) 789-2362 Fax: (907) 789-3075  
e-mail: marciamck@pci.net

APR 07 2002

April 3, 2003

Senator Gary Stevens, Chair  
Senate State Affairs Committee  
Alaska State Senate  
State Capitol  
Juneau, AK 99801-1182

Re: SB 158 moving the Council on Domestic Violence & Sexual Assault from Public Safety to Health & Social Services

Dear Senator Stevens:

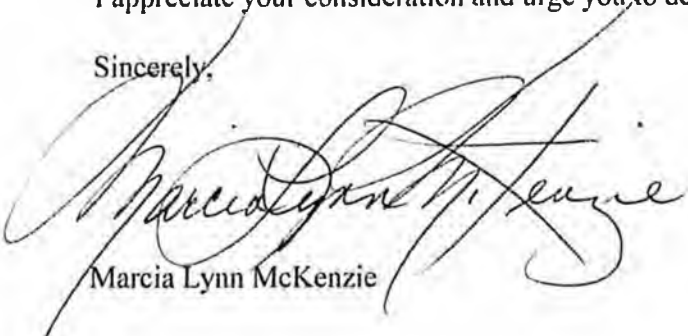
I recently learned about the referenced bill--SB 158--and am writing to my express my deep concern and opposition to the proposed transfer of the Council on Domestic Violence & Sexual Assault (CDVSA) from Public Safety (DPS) to Health & Social Services (H&SS). Currently, I am a private consultant working primarily with non-profits, including some of the women's shelter programs here in Alaska.

My personal experience and knowledge of the CDVSA date back to its creation in 1981. At that time, I was employed as the Program Budget Analyst within DPS. Prior to the Council's creation, a very small amount of grant money was appropriated to H&SS for domestic violence and sexual assault victims' programs. Domestic violence and sexual assault (DV/SA) were generally regarded as "women's issues" rather than as truly serious crimes that endanger lives. The Alaska State Legislature made a strong statement that DV/SA are not just "women's issues" but are criminal matters of life and safety by establishing the CDVSA in the Department of Public Safety. As the DPS Budget Analyst at that time, I was keenly aware of some of the philosophical issues involved, including some resistance by DPS to house the Council. Domestic violence and sexual assault were clearly two of the least favorite issues that law enforcement liked to deal with.

From 1990 until my retirement in 1996, I had the privilege of serving as the Program Coordinator for the CDVSA. I saw that in the fifteen years since the creation of the Council, attitudes within DPS had changed dramatically: Departmental and State Trooper management had become fully engaged; there was recognition that DV/SA is genuinely a significant issue of *public* safety. My concern is that if the CDVSA is moved to H&SS and loses its presence within DPS, law enforcement attitudes will revert to a de-emphasis on DV/SA while Alaska continues to have one of the highest per capita rates in the nation of these criminal assaults.

I appreciate your consideration and urge you to defeat SB 158.

Sincerely,



Marcia Lynn McKenzie

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

Main Office & Legal Advocacy Project  
130 Seward Street, Suite 209  
Juneau, Alaska 99801  
Phone: (907) 586-3650  
Fax: (907) 463-4493  
www.andvsa.org

Pro Bono Project  
P.O. Box 6631  
Sitka, Alaska 99835  
Phone: (907) 747-7545  
Fax: (907) 747-7547

## Organizational Members:

Anchorage  
AWAIC  
AWRC  
STAR

Barrow  
AWIC

Bethel  
TWC

Cordova  
CFRC

Dillingham  
SAFE

Emmonak  
EWS

Fairbanks  
IAC

Homer  
SPWS

Juneau  
AWARE

Kenai/Soldotna  
K/SWRCC)

Ketchikan  
WISH

Kodiak  
KWRCC

Kotzebue  
MFCC

Nome  
BSWG

Palmer  
AFRC

Seward  
SCS

Sitka  
SAFV

Unalaska  
USAFV

Valdez  
AVV

## Keep the Council on Domestic Violence and Sexual Assault in the Department of Public Safety

The safety of victims of domestic violence and sexual assault is the public's safety.

Domestic violence and sexual assault are crimes. The council that coordinates the state's response to these crimes should be housed within the department of public safety.

As one of the first responders to these crimes, advocates work most closely with law enforcement officers, prosecutors, clerks of court, magistrates—criminal justice system responders—not social services, in providing advocacy and support for victims.

Do not set the state back over 20 years when domestic violence was considered and treated as a private family matter. Domestic violence violates not only the direct victim, it also diminishes us as a community and deserves a community response.

Sexual assaults are almost always felony crimes. Working these cases does not fit easily into a social services treatment modality.

The Council's ability to secure federal funds for responding to domestic violence and sexual assault is not compromised by being housed in the department of public safety. While in the department, the Council has acquired federal Violence Against Women Act (VAWA) dollars through formula-based and competitive grants. These funds are distributed to community based programs; the court system; the department of public safety; the department of law; and the department of corrections. The Council also receives federal Victims of Crime Act (VOCA) dollars; Family Violence Prevention and Services Act (FVPSA) dollars; and Sexual Assault/Rape Prevention (SAP/RPE) dollars. VAWA and VOCA dollars come to states through the department of justice; FVPSA through health and human services; and SAP/RPE through the center for disease control. Being in the department of public safety has not kept the Council from obtaining dollars from any federal source.



CORDOVA  
FAMILY  
RESOURCE  
CENTER

P.O. Box 863, Cordova, AK 99574  
907-424-5674 Fax 907-424-5673 [cfric@ctcak.net](mailto:cfric@ctcak.net)

---

April 8, 2003

Cordova Family Resource Center wishes to express our concern over the proposed plan included in SB158 to move the Council on Domestic Violence and Sexual Assault from the department of Public Safety to the Department of Health and Social Services.

We strongly support leaving CDVSA in the Department of Public Safety as we believe that the issues of domestic violence and sexual assault are crimes and need to be seen and treated as such. The safety of victims is best dealt with through the Department of Public Safety, these are not private family matters, they are public policy.

Please do not set policy back after all the gains over the past 2 decades, do not move CDVSA to DHSS.

Thank you for your time.

A handwritten signature in cursive script that reads "Jill Simpson".

Jill Simpson, MSW  
Executive Director

policies as an effective domestic violence intervention that is part of a coordinated community response to the problem. Only states, Tribal governments, and units of local governments are eligible to apply for this funding.

The **Rural Domestic Violence and Child Victimization** grants under VAWA are also competitive grants. The Rural Program provides assistance through a competitive grant process to states, Tribal governments, local governments of rural states, and other public or private entities of rural states. The primary purpose of the rural program is to enhance the safety of abused women and children living in rural areas by creating or enhancing collaborative partnerships between criminal justice agencies, victim services providers and community organizations to respond to violent crimes committed against women and children, and to provide services to victims of such violence.

**Possible funding for capitol projects**

CDVSA was successful in coordinating the acquisition of over \$1.7 million dollars from the Rasmuson Foundation, Wells Fargo and the Denali Commission to match the \$500,000 authorized by the legislature to be used starting in FY03 to upgrade safety and living conditions and provide security measures in shelters and rape crisis programs across the state.

We do not believe being in the department of public safety has hindered CDVSA's ability to acquire and dispense federal dollars, state dollars from other departments, or private foundation dollars.

APR 09 2002



# City and Borough of Sitka

## POLICE DEPARTMENT

304 Lake Street, Room 102 • Sitka, Alaska 99835

Robert C. Gorder  
Chief of Police

Business 747-3245  
Fax 747-1075

April 7, 2003

Senator Gary Stevens  
State Capitol, Rm 417  
Juneau AK 99801-1182

Re: SB 158

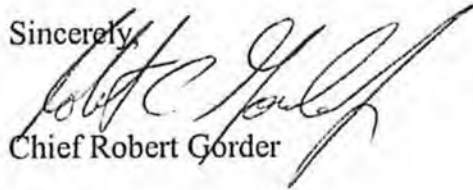
Dear Senator Stevens:

Please accept this letter as support for local Sitkans Against Family Violence (SAFV), our local domestic violence shelter's position to keep the Council on Domestic Violence and Sexual Assault (CDVSA) within the Department of Public Safety (DPS).

Although I can understand the logic of moving a mostly victim's services and support organization to Health and Social Services, I believe the current arrangement has and continues to enjoy success and obtains more public awareness under DPS. I believe the focus of criminalizing domestic violence and sexual assault is more effective and sends a clear message to Alaskans under DPS.

As the saying goes, "If it ain't broke, don't fix it." Thank you for the opportunity to voice my opinion. If I can be of any assistance, please do not hesitate to contact me.

Sincerely,

  
Chief Robert Gorder

Cc: Grace Brooks, Executive Director, SAFV

**SB**

**159**

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 3/28/03

FURTHER: Finance

Date of 5-Day Notice: 4/2/03  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/11/03

State Affairs Committee considered      SENATE BILL NO. 159

**SB 159 PAROLE FOR MEDICAL / COGNITIVE DISABILITY**

"An Act relating to special medical parole and to prisoners who are severely medically or cognitively disabled."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 159 (STA)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DOC	4/9/03		✓	1
DHSS	4/4/03	✓		2
DHSS	4/4/03	✓		3

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>	✓			

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 159  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Department of Corrections  
 Title Parole for Medical/Cognitive Disability BRU Administration & Operations  
 Component Inmate Health Care  
 Sponsor \_\_\_\_\_  
 Requester \_\_\_\_\_ Component No. 705

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

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

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

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

The annual average savings from passage of this legislation is calculated to be approximately \$500,000. The numbers of inmates who qualify for medical parole and their cost of care may vary greatly from year to year. The Governor's FY 04 budget contains a \$500,000 decrement to inmate medical care which assumes passage of this legislation.

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

Phone 465-3339  
 Date/Time 4/9/03 11:05 AM  
 Date 4/9/2003

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 159  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services  
 BRU Medical Assistance  
 Component Medicaid Services

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title SPECIAL MEDICAL PAROLE

Sponsor SENATE (FIN)  
 Requester SENATE (STA)

Component No. 2077

**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	280.8	617.7	1,019.2	1,495.0	2,055.7	2,713.6
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>280.8</b>	<b>617.7</b>	<b>1,019.2</b>	<b>1,495.0</b>	<b>2,055.7</b>	<b>2,713.6</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts	168.5	370.6	611.5	897.0	1,233.4	1,628.1
1003 GF Match	112.3	247.1	407.7	598.0	822.3	1,085.5
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>280.8</b>	<b>617.7</b>	<b>1,019.2</b>	<b>1,495.0</b>	<b>2,055.7</b>	<b>2,713.6</b>

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill gives the Department of Corrections greater discretion to grant special medical parole to "severely medically disabled" prisoners whose medical or cognitive condition, including irreversible dementia, substantially reduces, rather than substantially eliminates, the prisoner's ability to re-offend. This bill is seen as one way to reduce Department of Correction costs by paroling prisoners so that they can receive health care services in a more cost-effective and appropriate manner.

Prepared by: Kevin Henderson  
 Division Medical Assistance  
 Approved by: Joel S. Gilbertson, Cc.mmissioner  
 Agency Department of Health and Social Services

Phone 465-5821  
 Date/Time 04/02/2003  
 Date 04/04/2003

FISCAL NOTE  
FN #

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. SB 159

ANALYSIS CONTINUATION  
ASSUMPTIONS

Our assumptions are based upon the list of 13 current inmates who the Department of Corrections identified as potential medical parolees under this bill. We reviewed the age and medical condition of each and estimated that 9 of the 13 are likely to be categorically eligible for Medicaid, four would not. We do not have income or resource information for these inmates, but we are assuming that because of their lengthy incarceration they would have very little income or resources available to them upon release. We assumed all 9 would be financially eligible for Medicaid. The other four inmates are not likely eligible for Medicaid because the medical condition described (e.g., cancer) is not likely to meet the federal standard for disability.

The anticipated cost for each parolee is based upon the following Medicaid categories and the average annual cost of Medicaid recipients in those categories:

Parolees	Category	FY02 average annual cost
4	Disabled	\$11,408
2	Disabled/HCB	\$50,381
2	Old Age	\$10,869
1	Nursing Home	\$63,954

Medicaid expenditures are estimated to grow at a rate of 10% per year.

We believe the number and medical condition of the potential parolees is representative of what would happen each year, therefore, we assume a linear growth of 9 new Medicaid recipients each year (i.e., a total of 9 in '04, 18 in '05, 27 in '06, etc.).

Federal Medicaid match rate is 60%.

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 159  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services  
 BRU Public Assistance  
 Component Adult Public Assistance

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title SPECIAL MEDICAL PAROLE

Sponsor SENATE (FIN)  
 Requester SENATE (STA)

Component No. 222

**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	39.1	78.2	117.3	156.4	195.5	234.6
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>39.1</b>	<b>78.2</b>	<b>117.3</b>	<b>156.4</b>	<b>195.5</b>	<b>234.6</b>

<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF	39.1	78.2	117.3	156.4	195.5	234.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>39.1</b>	<b>78.2</b>	<b>117.3</b>	<b>156.4</b>	<b>195.5</b>	<b>234.6</b>

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

**POSITIONS**

POSITIONS	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill gives the Department of Corrections greater discretion to grant special medical parole to severely medically disabled prisoners.  
 Of the 13 severely medically disabled prisoners identified by the Department of Corrections as potential medical parolees, nine appear to be eligible for Adult Public Assistance (APA) upon their release.  
 Continued on page 2.

Prepared by: Anthony Lombardo  
 Division: Public Assistance  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone 465-5835  
 Date/Time 04/01/2003  
 Date 04/04/2003

ANALYSIS CONTINUATION  
Assumptions

Because of their lengthy incarceration, the potential medical parolees identified would have very limited income or resources and would be eligible for the maximum APA benefit of \$362/mo.

The number of medical parolees will increase by nine each year:

9 parolees will be eligible for APA in FY 04

18 parolees will be eligible for APA in FY 05

27 parolees will be eligible for APA in FY 06

36 parolees will be eligible for APA in FY 07

45 parolees will be eligible for APA in FY 08

54 parolees will be eligible for APA in FY 09

Calculations

FY 04: 9 persons x \$362/mo x 12 months = \$39.1

FY 05: 18 persons x \$362/mo x 12 months = \$78.2

FY 06: 27 persons x \$362/mo x 12 months = \$117.3

FY 07: 36 persons x \$362/mo x 12 months = \$156.4

FY 08: 45 persons x \$362/mo x 12 months = \$195.5

FY 09: 54 persons x \$362/mo x 12 months = \$234.6

**REQUEST FOR MEDICAL PAROLE:**

Updated 4/6/03

Inmate Name	OBSIS#	DOB	Release Date	Site	Costs FY'01	Costs FY'02	Costs FY'03	Costs to Date	Diagnosis
Robert Abel	9633	9/7/1928	12/3/2010	AJ	\$ -	\$ 5,671.00	\$ 107,632.00	\$ 113,303.00	Heart condition
Greg Beaudoin	385494	6/20/1978	9/14/2038	SCCC	\$ -	\$ -	\$ 85,372.93	\$ 85,372.93	
Tina Boucher	20373	4/15/1956	8/2007	HMCC	\$ 183,591.00	\$ 2,500.00	\$ 89,103.00	\$ 275,194.00	Liver failure; hepatitis C; alcoholic cirrhosis
Caryn Craig	302571	6/4/1956	9/9/2002	Released	\$ 88,026.42	\$ 2,308.00	\$ -	\$ 90,334.42	Hodgkins
Larry Curl	3807	1/30/1941	3/13/2011	SCCC	\$ 133,636.25	\$ 47,513.67	\$ 554.00	\$ 181,703.92	Advanced cardiac stroke
Sheldon Demke	1938	8/19/1962	1/11/2004	AJ	\$ -	\$ 10,443.38	\$ 59,204.00	\$ 69,647.38	
Corey Dodge	321681	6/7/1976	10/2/2004	AJ	\$ -	\$ 23,734.27	\$ 50,459.64	\$ 74,193.91	Heart condition
Bruce Gregory	118236	10/10/1964	9/10/2000	Deceased	\$ 46,202.99	\$ -	\$ -	\$ 46,202.99	Nasal Pharynx CA
Leroy Jackson	12174	5/27/1961	7/28/2003	AJ	\$ -	\$ 212,589.00	\$ 335,351.59	\$ 547,940.59	Chronic abdominal blockages
Ralph Komakhuk	229101	5/22/1946		CIPT	\$ 150,631.22	\$ -	\$ 14,178.09	\$ 164,809.31	Advanced cardiac
Michael Lasko	85377	6/4/1943	10/16/2008	PCC	\$ 53,874.90	\$ 84,148.70	Not Available	\$ 138,023.60	CAD-CABG x 5
Luis Martinez	201636	6/16/1953		Probation	\$ 123,067.20	\$ 2,477.80	\$ -	\$ 125,545.00	Nasal Pharynx CA
Tracy McCracken	65040	2/26/1940	10/0/03	SCCC	\$ 193,700.00	\$ 500.00	\$ 26,293.20	\$ 220,493.20	Paraplegia - requires full-time aid
Roy Okakok	100032	11/30/1928	2/10/2001	Deceased	\$ 269,456.36	\$ -	\$ -	\$ 269,456.36	Advanced cardiac
Charles Pavila	11511	4/16/1961		CIPT	\$ 13,387.49	\$ 24,698.61	\$ 59,011.04	\$ 103,097.14	
Bernard Pete	28164	4/3/1962		Probation	\$ -	\$ -	\$ 22,169.70	\$ 22,169.70	Terminal metastatic cancer
James Price	39729	3/29/1960	11/17/2002	Deceased	\$ -	\$ 469.00	\$ 85,389.85	\$ 85,858.85	
Millard Primmer	435174	6/1/1936	11/22/2005	HMCC	\$ 70.00	\$ 29,625.60	\$ 110.00	\$ 29,805.60	Chronic anemia/splenectomy/lymphoma
Charles Smith	84729	6/24/1951	3/29/2005	CIPT	\$ 300.00	\$ -	\$ 46,887.08	\$ 47,187.08	
Alan Stanton	463482	7/7/1948	8/17/2005	HMCC	\$ -	\$ -	\$ 70,030.59	\$ 70,030.59	Renal cell carcinoma
Everett Turner	111261	11/14/1925		CIPT	\$ 5,000.00	\$ 5,253.00	\$ 617.50	\$ 10,870.50	Alzheimers
David Williams	12081	3/1/1960	4/22/2004	SCCC	\$ -	\$ -	\$ 5,558.83	\$ 5,558.83	Kidney mass
					\$ 1,266,943.83	\$ 451,932.03	\$ 1,057,923.04	\$ 2,776,798.90	\$5,553,598

REQUEST FOR MEDICAL PAROLE:									Updated 4/6/03
Inmate Name	OBSIS#	DOB	Release Date	Site	Costs FY'01	Costs FY'02	Costs FY'03	Costs to Date	Diagnosis
<b>Out-of-State</b>									
Bernie Alexie	112878	7/12/1946	1/10/1963	AZ	\$ -	\$ 235.00	\$ 1,362.85	\$ 1,597.85	Renal failure
Ramon Cruz	347628	1/28/1947	4/8/2003	AZ	\$ 6,540.24	\$ 53,644.05	\$ 88,133.38	\$ 148,317.67	Stroke w/L hemiplegia & ataxia
Mario Dyer	29478	10/13/1965	8/20/2004	AZ	\$ 196.00	\$ 360.76	\$ 208.29	\$ 765.05	Blind
Mark Hayes	385302	9/8/1968	9/19/2007	AZ	\$ -	\$ -	\$ -	\$ -	Abdominal mass
Robert Machado	33408	10/29/1953	5/15/2020	AZ	\$ -	\$ -	\$ 48,532.02	\$ 48,532.02	
James Morman	275484	12/20/1928	6/8/2003	AZ	\$ -	\$ -	\$ 6,966.37	\$ 6,966.37	CAD, HTN
George Olson	282084	11/21/1947	10/2029	WA	\$ 259,752.00	\$ 85,618.00	\$ 38,543.40	\$ 383,913.40	Renal kidney failure - on dialysis
John Powell	201816	6/26/1962	2011	WA	\$ -	\$ -	\$ 221,823.15	\$ 221,823.15	Paraplegia from DOC car accident
James Ridgely	2991	3/25/1966	2/11/2003	Deceased	\$ 6,346.31	\$ 18,632.60	\$ 54,625.42	\$ 79,604.33	
Elmer Riley	26505	11/20/1962	5/4/2004	AZ	\$ -	\$ -	\$ 4,395.17	\$ 4,395.17	Cancer w/2 reoccurences
Roy Shangin	29070	11/2/1948	9/24/2008	WA	\$ -	\$ 80,315.04	\$ 20,570.00	\$ 100,885.04	Stroke w/residual disability
Steven Stotesbury	439167	9/13/1956	9/7/2003	AZ	\$ -	\$ 881.43	\$ 3,821.46	\$ 4,702.89	Lung lesion
William Wilson	95850	9/9/1940	7/2025	AZ	\$ 8,565.76	\$ 2,321.55	\$ 20,588.67	\$ 31,475.98	Multiple aortic aneurysms; kidney disease
					\$ 281,400.31	\$ 242,008.43	\$ 509,570.18	\$ 1,032,978.92	\$2,065,958

AMENDMENT TO COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 159  
(Version D)

AMENDMENT NO. 1

OFFERED BY: \_\_\_\_\_

- 1 At page 3, line 2, delete "and"
- 2 At page 3, line 6, after "noticeably" add:
- 3 "; and (7) an appropriate discharge plan has been formulated that addresses basic life
- 4 domains for the prisoner, including care coordination, housing, eligibility for public
- 5 benefits, and health care (including necessary medication)."

*Not offered*

AMENDMENT TO COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 159  
(Version D)

AMENDMENT NO. 2

OFFERED BY: \_\_\_\_\_

- 1 At page 3, line 17, delete "due to irreversible dementia"

Not offered

23-LS0883VD  
Luckhaupt  
4/9/03

CS FOR SENATE BILL NO. 159( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to special medical parole and to prisoners who are severely medically  
2 or cognitively disabled."

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

4 \* Section 1. AS 33.16.085(a) is amended to read:

5 (a) Notwithstanding a presumptive, mandatory, or mandatory minimum term a  
6 prisoner may be serving or any restriction on parole eligibility under AS 12.55, a  
7 prisoner who is serving a term of at least 181 days, may, upon application by the  
8 prisoner or the commissioner, be released by the board on special medical parole if the  
9 board determines that

10 (1) [FOR A PRISONER CONVICTED OF

11 (A) AN OFFENSE OTHER THAN A VIOLATION OF  
12 AS 11.41.434 - 11.41.438, THAT] the prisoner is severely medically or  
13 cognitively disabled [OR A QUADRIPLÉGIC] as certified in writing by a  
14 physician licensed under AS 08.64 [, WAS NOT SEVERELY MEDICALLY

1 DISABLED OR A QUADRIPLAGIC AT THE TIME THE PRISONER  
2 COMMITTED THE OFFENSE OR PAROLE OR PROBATION  
3 VIOLATION FOR WHICH THE PRISONER IS PRESENTLY  
4 INCARCERATED; OR

5 (B) A VIOLATION OF AS 11.41.434 - 11.41.438, THAT  
6 THE PRISONER IS A QUADRIPLAGIC AS CERTIFIED BY A  
7 PHYSICIAN LICENSED UNDER AS 08.64 AND WAS NOT A  
8 QUADRIPLAGIC AT THE TIME THE PRISONER COMMITTED THE  
9 OFFENSE OR PAROLE OR PROBATION VIOLATION FOR WHICH THE  
10 PRISONER IS PRESENTLY INCARCERATED]; [AND]

11 (2) [THAT] a reasonable probability exists that

12 (A) the prisoner will live and remain at liberty without  
13 violating any laws or conditions imposed by the board;

14 (B) because of the prisoner's medical or cognitive disability  
15 [BEING SEVERELY MEDICALLY DISABLED OR A QUADRIPLAGIC],  
16 the prisoner will not pose a threat of harm to the public if released on parole;  
17 and

18 (C) release of the prisoner on parole would not diminish the  
19 seriousness of the crime;

20 (3) the prisoner

21 (A) was not suffering from the medical or cognitive  
22 disability at the time the prisoner committed the offense or parole or  
23 probation violation for which the prisoner is presently incarcerated; or

24 (B) was suffering from the medical or cognitive disability at  
25 the time the prisoner committed the offense or parole or probation  
26 violation for which the prisoner is presently incarcerated and the medical  
27 or cognitive disability has progressed so that the likelihood of the  
28 prisoner's committing the same or a similar offense is low;

29 (4) the care and supervision that the prisoner requires can be  
30 provided in a more medically appropriate or cost-effective manner than by the  
31 department;

1                   (5) the prisoner is incapacitated to an extent that incarceration  
2                   does not impose significant additional restrictions on the prisoner; and

3                   (6) the prisoner is likely to remain subject to the medical or  
4                   cognitive disability throughout the entire period of parole or to die and there is  
5                   no reasonable expectation that the prisoner's medical or cognitive disability will  
6                   improve noticeably.

7 \* Sec. 2. AS 33.16.087(a) is amended to read:

8                   (a) If the victim of a crime [AGAINST A PERSON OR ARSON IN THE  
9                   FIRST DEGREE] requests notice of a scheduled hearing to review or consider special  
10                   medical parole for a prisoner convicted of that crime, the board shall send notice of the  
11                   hearing to the victim at least 30 days before the hearing. The notice must be  
12                   accompanied by a copy of the prisoner's or commissioner's application for parole  
13                   submitted under AS 33.16.085. However, the copy of the application sent to the victim  
14                   may not include the prisoner's proposed residence and employment addresses.

15 \* Sec. 3. AS 33.16.900(11) is amended to read:

16                   (11) "severely medically or cognitively disabled" means that a person  
17                   has a medical condition, or a cognitive condition due to irreversible dementia, that  
18                   substantially reduces [ELIMINATES] the [PHYSICAL] ability to commit an offense  
19                   similar to the offense for which the person was convicted or to commit an offense in  
20                   violation of AS 11.41 that is punishable as a felony, and the person is likely to

21                   (A) remain subject to the medical or cognitive condition  
22                   throughout the entire period of parole; or

23                   (B) die from the medical or cognitive condition;

24 \* Sec. 4. AS 33.16.900(12) is amended to read:

25                   (12) "special medical parole" means the release by the board before the  
26                   expiration of a term, subject to conditions imposed by the board and subject to its  
27                   custody and jurisdiction, of a prisoner who is severely medically or cognitively  
28                   disabled [OR A QUADRIPLEGIC].

29 \* Sec. 5. AS 33.30.017(c) is amended to read:

30                   (c) The provisions of (b) of this section do not apply to prisoners

31                   (1) who are

- 1 (A) developmentally disabled; or  
2 (B) severely medically or cognitively disabled, as that term is  
3 defined in AS 33.16.900;  
4 (2) who are housed in a mental health unit or psychiatric unit of a state  
5 correctional facility; or  
6 (3) while placed in a state correctional facility awaiting classification  
7 under classification procedures for the purpose of making the appropriate assignment  
8 of the prisoner.

# ALASKA STATE LEGISLATURE



(907) 376-3157 Fax

## SENATOR LYDA GREEN SENATE DISTRICT G

### Sponsor Statement for SB 159

Senate Bill 159 gives the Alaska Board of Parole flexibility to grant or deny medical parole to applicants. Thus the board will be better able to meet the needs of the prisoners, the department and communities.

The Alaska Parole Board has a proven track record in their decision-making abilities. Over the past seven years, the Alaska Board of Parole has granted parole to approximately 45% of all the *discretionary* parole applicants. Less than 8% of these parolees have violated their conditions (i.e. missed a meeting with a parole officer) and approximately 1% have committed a new offense. This number is particularly compelling when compared to the 77% return rate of *mandatory* parole violators.

This bill will allow the Alaska Board of Parole and the Department of Corrections to work together to determine an appropriate and cost effective release plan. The cost of health care to the Department of Corrections has significantly increased over the last few years. Some of the factors causing these increases are:

- The increased population of terminally ill inmates
- The recent Seward Highway accident on November 19, 2002
- Hospitalization of prisoners for long-term assisted care

When making a determination for Medical Parole the following are considered:

1. Department of Correction medical report
2. The seriousness of the criminal offense
3. Release plan
4. Parole Officer/DOC recommendation

Passage of this proposed legislation will allow the Alaska Board of Parole to use its endowed power and authority to make responsible decisions regarding all the factors mentioned above, while still considering the safety of the community.

# ALASKA STATE LEGISLATURE



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

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

## SENATOR LYDA GREEN SENATE DISTRICT G

### SECTIONAL ANALYSIS COMMITTEE SUBSTITUTE for Senate Bill 159

*“An Act relating to special medical parole and to prisoners who are severely medically and cognitively disabled.”*

**Section 1:** Amends AS 33.16.085(a). Special medical parole. Removes the language stating that a prisoner who may be considered for medical parole may not be convicted of an offense in violation of AS 11.41.434 through AS 11.41.438 (Sexual abuse of a minor<sup>1,2,3</sup>) and was not severely medically disabled or a quadriplegic at the time of the offense.

Adds language that the prisoner must be either severely medically disabled or have a cognitive disability. In addition to the above, other provisions allowing for special medical parole are:

- The prisoner was not suffering from the medical or cognitive disability at the time of the offense was committed or the medical or cognitive disability the prisoner had at the time of offense has progressed so that the likelihood of the prisoner committing the same or similar offense is low;
- The care and supervision required of the prisoner can be provided in a more medically appropriate or cost effective manner than can be provided by the Department of Corrections;
- The prisoner is incapacitated to the extent that institutional confinement does not offer additional restrictions; and
- The prisoner is likely to die or remain subject to the condition throughout the entire period of parole and there is no reasonable expectation that the prisoner's disability will improve noticeably.

**Section 2:** Amends AS 33.16.087(a). Rights of certain victims in connection with special medical parole. Removes the words “against a person or arson in the first degree”. This allows victims of any crime to request notice of a scheduled hearing to review or consider special medical parole. The parole board is required to send notice 30 days before the hearing.

**Section 3:** Amends AS 33.16.900(11). Definitions. Adds or cognitively disabled to the definition of severely medically disabled. Also adds “or a cognitive condition due to irreversible dementia” to the definition. The words “eliminates” and “physical” are removed. Eliminates is replaced by reduces. Removal of the word “physical” allows for any disability to be considered for medical parole.

**Section 4:** Amends AS 33.16.900(12). Definitions. Amends the definition of special medical parole to include “or cognitively”.

**Section 5:** Amends AS 33.30.017(c). Adds cognitively to this section of statute.

# STATISTICAL REPORT

1996-2002

(Calendar Years)

## ALASKA BOARD OF PAROLE PAROLE HEARING

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
<b>Total Full Board Hearing Held</b>	536	562	655	590	595	570	543
<b>Total Full Board Medical Parole Hearing</b>	1	2	2	3	0	4	2
<i>With Grant decision # of all medical hearings</i>	1	2	2	3	0	2	0
<i>With Deny decision # of all medical hearings</i>	0	0	0	0	0	2	2

*Total # of special medical parole hearings from 1996-2002= 14*

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# STATISTICAL REPORT

## 1996 - 2002

(Calendar Years)

### ALASKA BOARD OF PAROLE

[NOTE: All percentages are rounded to the nearest whole percentage point.]

[NOTE: Statistics are calculated on calendar year basis.]

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Total Full Board Hearings Held	536	562	655	590	595	570	543
Specials Hearings (see Specials section)	156	195	274	274	320	293	304
MR Conditions Set		425	648	633	540	598	722
Preliminary Hearings Held		298	367	430	513	489	541
		[72% increase from 1997 to 2000]					
Parole Arrest Warrants Issued Statewide ( represents # warrants issued only - does not reflect actual arrests)		491	515	551	669	633	616

Year 2001 by Region: Southeast-45; Northern-154; Southcentral-434  
Year 2002 by Region: Southeast-63; Northern-132; Southcentral-421

<u>Full Board Hearings Held by Quarter</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Winter	129	135	160	170	142	138	173
Spring	141	141	158	124	147	153	108
Summer	132	139	188	152	186	120	91
Fall	<u>134</u>	<u>147</u>	<u>149</u>	<u>144</u>	<u>120</u>	<u>159</u>	<u>171</u>
	536	562	655	590	595	570	543

<u>Total Full Board Hearings Held Each Year</u>	<u>536</u>	<u>562</u>	<u>655</u>	<u>590</u>	<u>595</u>	<u>570</u>	<u>543</u>
% of Full Board Hearings that are Initial Discretionary	37%	41%	36%	32%	27%	27%	28%
% of Full Board Hearings that are Revocations	51%	43%	49%	56%	63%	66%	65%
% of Full Board Hearings that are Rescissions	3%	2%	4%	5%	4%	3%	2%
% of Full Board Hearings that are Reviews	6%	7%	4%	6%	6%	4%	6%

1996 1997 1998 1999 2000 2001 2002

**Hearing Types**

# of All Full Board Hearings that are Initial Discretionary	198	228	236	186	161	154	145
% of All Full Board Hearings that are Initial Discretionary	37%	41%	36%	32%	27%	27%	27%
# of All Full Board Hearings that are Reviews	29	39	28	37	35	22	33
% of All Full Board Hearings that are Reviews	6%	7%	4%	6%	6%	4%	6%
# of All Full Board Hearings that are Rescissions (all types)	15	13	29	30	21	18	9
% of All Full Board Hearings that are Rescissions	3%	2%	4%	5%	4%	3%	2%

(For information on Revocations, see next page)

**Discretionary Parole Hearing Decisions**

# of Initial Discretionary Hearings with Grant decision	80	79	121	95	66	61	57
% of All Initial Discretionary Hearings	40%	35%	51%	51%	41%	40%	39%
# of Initial Discretionary Hrgs with "Continue" Decision	41	30	31	32	34	23	29
% of All Initial Discretionary Hearings	21%	13%	22%	17%	21%	15%	20%
# of Initial Discretionary Hrgs with "Deny" Decision				59	61	70	59
% of All Initial Discretionary Hearings				32%	38%	45%	41%

**"Continue" Decisions for All Full Board Hearings**

# of "Continue" Decisions (of All Full Board Hearings)	81	68	86	85	95	75	79
% of All Full Board Hearings with "Continue" Decision	15%	12%	13%	14%	16%	13%	15%

[NOTE: See next page for statistics on all Revocation hearings.]

## REVOCATION STATISTICS

1996   1997   1998   1999   2000   2001   2002

Total Full Board <u>Revocation</u> Hearings Held (Disc. & MR)	272	243	322	335	376	415	367
	<i>[ 38% increase from 1996 to 2000 ]</i>						

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
# of <u>Discretionary Revocation</u> Hearings	28	29	18	28	29	38	25
% Discretionary Revocation Hrgs of all Revocation Hrgs held	10%	12%	6%	8%	8%	9%	6%
# of <u>Mandatory Revocation</u> Hearings (includes rescis & reviews)	245	214	304	307	347	377	369
% of Mandatory Revocation Hrgs of all Revocation Hrgs held	90%	88%	94%	92%	92%	91%	94%

Subsets/Types of Mandatory Revocations Hearings: (does not include Review hearings)

# of MR Revocations & all Rescissions	238 (78%)	282 (81%)	318 (81%)	261 (77%)
# of MR Reparole Revocation Hearings	31 (10%)	28 (8%)	33 (8%)	36 (11%)
# of Anticipatory MR Revocations	38 (12%)	37 (11%)	42 (11%)	39 (11%)
Discretionary Reparole Revocation		1	0	3 (1%)

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
# of All Revocation Hrgs Resulting in "Revoke/Deny" Decision	80	131	111	109	115	153	103
% of All Revocation Hrgs Resulting in " <u>Revoke/Deny</u> " Decision	29%	54%	34%	33%	30%	39%	28%
# of All Revocation Hrgs Resulting in "Reprimand/Warn" Decision	42	25	37	38	51	39	40
% of All Revocation Hrgs Resulting in " <u>Reprimand/Warn</u> " Decision	15%	10%	11%	11%	14%	10%	11%
# of All Revocation Hrgs Resulting in "Revoke/Reparole" Decision	85	76	126	136	151	144	168
% of All Revocation Hrgs Resulting in " <u>Revoke/Reparole</u> " Decision	31%	31%	39%	41%	40%	37%	46%
# of All Revocation Hrgs Resulting in "Continue" Decision				52	59	57	56
% of All Revocation Hrgs Resulting in " <u>Continue</u> " Decision				15%	16%	14%	15%

## Specials Hearings

(Definition: Full Board hearings for special requests; parolees do not participate in Specials hearings)

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Total # of Specials Hearings Held	156	195	274	274	320	293	304
	<i>(100 % increase from 1996 to 2000)</i>						

<u># Special Hearings Held by Type:</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Condition Change Request	12	21	14	35	44	24	11
Anticipatory Waiver	0	2	0	0	3	2	1
Discr. Rescission Waiver	1	0	1	0	1	1	0
Discr. Reparole Revoc Waiver	0	1	0	0	1	0	0
Discr. Revocation Waiver	7	5	13	13	14	19	12
MR Reparole Revoc Waiver	8	10		3	15	26	32
MR Revocation Waiver	77	114	178	148	175	166	182
Reconsideration	27	30	41	37	38	31	22
Rescission Waiver	17	12	16	21	13	6	16
Special Medical Parole				2	2	3	2
Offender Supv. Program(OSP)				5	3	1	1
Request for Time Served					3		1
Dismissed Charges					4		0
Special Requests						5	9
Early Release	7	0	11	10	4	9	15
	<i>(7grant)</i>		<i>(7grant)</i> <i>(4deny)</i>	<i>(3grant)</i> <i>(7deny)</i>	<i>(3grant)</i> <i>(1deny)</i>	<i>(4grant)</i> <i>(5deny)</i>	<i>(7 grant)</i> <i>(8 deny)</i>

Questions to be addressed to Larry Jones, Executive Director, Alaska Board of Parole

Email: [lawrence\\_jones@correct.state.ak.us](mailto:lawrence_jones@correct.state.ak.us)

[doc: f:\statistics addendum 2002.doc] 1/6/03

SB

162

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/28/03

FURTHER: Judiciary

Date of 5-Day Notice: 4/10/03  
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/15/03

State Affairs Committee considered SENATE BILL NO. 162

### SB 162 CIGARETTE SALES REQUIREMENTS

"An Act relating to a tobacco product manufacturer's compliance with certain statutory requirements regarding cigarette sales; and providing for an effective date."

and recommends:

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

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DOL	1/28/03		✓	1
DOR	1/29/03		✓	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John C. ...</i>	✓			
<i>...</i>	✓			
CHAIR: <i>...</i>				

FRANK H. MURKOWSKI  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

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JUNEAU, ALASKA 99811-0001  
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WWW.GOV.STATE.AK.US

March 27, 2003

The Honorable Gene Therriault  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 107  
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to a tobacco product manufacturer's compliance with certain statutory requirements regarding cigarette sales.

The model for the bill was drafted by the National Association of Attorneys General in cooperation with a working group of participating states and is designed to aid state enforcement of the tobacco product Master Settlement Agreement and AS 45.53, and thus preserve, to the fullest extent possible, the revenue stream under the Master Settlement Agreement. We understand that most of the 46 participating states will seek to pass this legislation in their respective upcoming legislative sessions. We also understand that the bill has been reviewed and approved by two of the principal tobacco parties to the Master Settlement Agreement, Phillip Morris and RJ Reynolds.

In 1999, 46 states, including Alaska, collectively settled their claims against certain tobacco manufacturers and entered into the "Master Settlement Agreement" (MSA). Under the MSA, the participating tobacco product manufacturers agreed to pay certain amounts to the settling states in perpetuity in exchange for dismissal of the states' lawsuits. One of the provisions of the MSA, however, required that the states enact legislation that would "level the playing field" for non-participating tobacco manufacturers. This leveling legislation required such non-participating tobacco manufacturers to deposit money into escrow for every cigarette they sold in the state. The intent of this escrow requirement was to prevent the non-participants from undermining the overall goals of MSA by guaranteeing "a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise." See sec. 1, ch. 46, SLA 1999.

The Honorable Gene Therriault

March 27, 2003

Page 2

Since 1999, the participating states have detected concerted efforts by non-participating tobacco manufacturers to evade the legislated escrow requirements. Various schemes have been employed, often through use of elusive foreign tobacco manufacturers, to attempt to circumvent the requirement of escrow deposits.

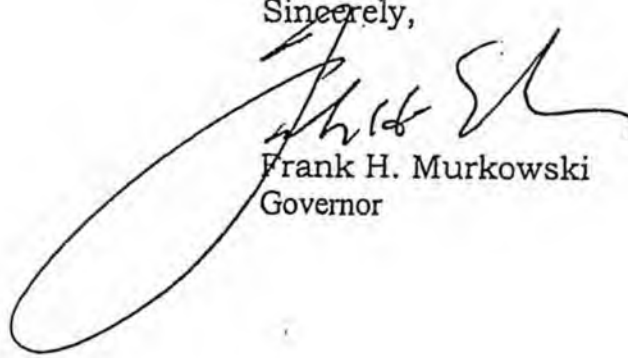
This bill seeks to bring an end to these schemes. In order to sell cigarettes in this state, a tobacco product manufacturer will have to annually certify that it is in compliance with AS 45.53. Additionally, tobacco product manufacturers must include certain information that will assist the Department of Revenue in its enforcement efforts in this regard.

The Department of Revenue will publish and update a directory of cigarettes that are approved for sale in this state. Cigarettes that are not listed in this directory are contraband and may not be sold in the state. The bill provides for civil penalties for selling or possessing contraband cigarettes.

The enactment of this bill will bring an end to efforts by non-participating manufacturers to evade their obligations to deposit escrow for their in-state cigarette sales.

I urge your prompt and favorable action on this measure.

Sincerely,



Frank H. Murkowski  
Governor

# STATE OF ALASKA

**DEPARTMENT OF LAW**  
*OFFICE OF THE ATTORNEY GENERAL*

*FRANK H. MURKOWSKI,*  
**GOVERNOR**

*Civil Division - Juneau Commercial Section*  
*P.O. BOX 110300 - DIMOND COURT HOUSE*  
*JUNEAU, ALASKA 99811-0300*

*PHONE: (907)465-3600*  
*FAX: (907)465-2539*

SB 162  
Senate State Affairs Committee  
April 15, 2003  
9:00am

Testimony of Michael A. Barnhill, Asst. Attorney General

Thank you Mr. Chair. My name is Mike Barnhill. I am employed by the Alaska Department of Law as an Assistant Attorney General in the Commercial Section. I am pleased to testify on behalf of the administration in support of SB 162, the bill before you.

In your bill packets you should have a copy of the background and sectional analysis I prepared. I don't intend to read the entire document for you, but I will touch the salient points for your consideration.

By way of background, as you all know, the State of Alaska, along with 45 other states settled its tobacco litigation with the major tobacco manufacturers in 1998, in exchange for a stream of payments that would last indefinitely. One of the terms of this "Master Settlement Agreement" is that the payments can be reduced by what's called a "non-participating manufacturer adjustment" or "NPM adjustment." The MSA provides, however, that states can avoid an NPM adjustment by doing two things: (1) enact the model NPM statute and (2) diligently enforce that statute.

The model NPM statute is basically a statute that levels the playing field between tobacco manufacturers that participated in the settlement agreement and those that did not—it requires the non-participating manufacturers to deposit certain amounts of money into an escrow account for every cigarette sold in the state. In 2001, for instance, an NPM was required to deposit approximately 1.5 cents into escrow for every cigarette sold.

Alaska enacted the model NPM statute in 1999 (AS 45.53) and has been diligently enforcing it since its enactment.

Since the enactment of the NPM statute, however, Alaska and many other states have found that enforcing the NPM statute is unnecessarily difficult in some situations. Usually these situations involve cases where the tobacco manufacturer is located in a far-flung jurisdiction like India or the Philippines. While it is possible to seek enforcement of Alaska laws on companies in foreign countries it is not necessarily easy.

As a solution, states began looking for ways to enhance their ability to enforce the NPM statutes. In 2001, Alaska and Maine became the first states to enact "complimentary legislation". Alaska's complimentary legislation is found at AS 43.50.145 and basically creates a list of companies that have failed to comply with our NPM laws and declares their cigarettes to be contraband and subject to seizure.

Other states followed suit and enacted their own versions of complimentary legislation. By 2002, there were various versions of complimentary legislation around the country and it became clear that there was a need for uniformity.

The National Association of Attorneys General formed a working group in 2002 with the goal of drafting a model complimentary legislation statute. SB 162 is the product of that working group and NAAG has urged all states to enact this legislation as a high priority.

Simply put, SB 162 enhances our ability to enforce Alaska's NPM statute by creating a "directory" of cigarettes that are permitted to be sold in Alaska. A company can be added to the directory simply by annually certifying to the Dep't of Revenue that they are either (a) a participating manufacturer under the MSA or (b) a non-participating manufacturer that has complied with AS 45.53 by depositing all required amounts into escrow.

SB 162 requires tobacco manufacturers to provide information about their products to the Dep't of Revenue to aid in enforcement efforts. It provides penalties for failure to comply. It provides for service of process upon the Dep't of Community and Econ. Development for companies that refuse to comply with our law and fail to appoint an instate agent for service of process. Lastly, it provides a tax credit for cigarette distributors that import cigarettes that are listed on the directory and that are subsequently de-listed—this ensures that distributors will not be left "holding the bag" on cigarette taxes for a tobacco manufacturer that fails to comply with Alaska law.

I'm delighted that the administration supports this bill and I urge your support of it. I'd be happy to answer any questions the committee might have.

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## SB 162

### Background and Sectional Analysis

#### I. BACKGROUND

On November 23, 1998, Alaska and 45 other states (plus the District of Columbia and 5 territories) entered into the Tobacco Master Settlement Agreement ("MSA") with certain Tobacco Product Manufacturers (known as "Participating Manufacturers" or "PMs"). The MSA provides that in exchange for the PMs' agreement to make specified payments to the Settling States -- estimated to exceed \$200 billion through 2025 -- and their agreement to abide by extensive public health restrictions on the advertising, promotion and marketing of cigarettes, the Settling States agreed to release the PMs from claims by the States.<sup>1</sup>

Those non-participating Tobacco Product Manufacturers that did not sign the MSA ("Non-Participating Manufacturers" or "NPMs") were not released from potential State claims and did not undertake any of the payment obligations or agree to abide by the public health restrictions. In order to ensure that Settling States that successfully sue NPMs in the future will have a fund against which they can recover any judgment or settlement moneys, the MSA includes a proposed "Model Statute" that, if enacted by a Settling State, requires NPMs to make annual payments into a qualified escrow fund based on the number of that NPM's cigarettes sold in the State.<sup>2</sup> The Model Statute is also intended to prevent NPMs from reaping a windfall benefit by selling cigarettes in a Settling State without bearing the costs that cigarette smoking imposes on the State.

The Model Statute declares:

It would be contrary to the policy of the state if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost

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<sup>1</sup> The released claims generally include claims arising out of or in any way related to (a) the use, sale, distribution, manufacture, development, advertising, marketing or health effects of, (b) the exposure to, or (c) research, statements, or warnings regarding, tobacco products. MSA §II(nn).

<sup>2</sup> Alaska's "model statute" was enacted in 1999 (ch. 46, SLA 1999) and is found at AS 45.53.

advantage to derive large, short-term profits in the years before liability may arise without ensuring that the state will have an eventual source of recovery from them if they are proven to have acted culpably; it is thus in the interests of the state to require that such manufacturers establish an escrow fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

§ 1, ch. 46, SLA 1999.

The MSA encouraged States to enact the Model Statute by creating a significant financial incentive: Settling States that enact and 'diligently enforce' a Model Statute are not subject to certain potential downward adjustments in receiving their annual MSA payments. All Settling States have enacted Model Statutes.

A Settling State through its attorney general or other official may bring a civil action on behalf of the State against any Tobacco Product Manufacturer that fails to place into escrow the funds required by the Model Statute. While the Settling States have been aggressively enforcing the provisions of the Model Statutes, enforcement has proved costly and cumbersome. Among other things, the Model Statute enables NPMs to sell cigarettes for up to 16 months in a State before the State can bring an action to enforce the Model Statute. In addition, many NPMs are located in foreign countries and it has proved difficult and expensive to obtain service of process or to effect judgments. And, as the Settling States have moved forward with numerous actions against non-compliant NPMs, many NPMs have devised ingenious schemes to evade compliance. The purpose of this "complementary legislation" is to make State enforcement of Model Statutes more effective and thereby promote the purposes for which the Model Statutes were enacted.

Approximately fifteen states, including Alaska, have enacted complementary legislation. Alaska's existing complimentary legislation is AS 43.50.145, which simply provides that NPM cigarettes for which escrow payments have not been made are contraband and subject to confiscation. Other states' complimentary legislation have taken different forms but is largely similar from state to state. Generally, these statutes: prohibit tax-stamping of tobacco products that are not in compliance with a Settling State's Model Statute; require certification that a Tobacco Product Manufacturer is either a Participating Manufacturer under the MSA or, if an NPM, is in full compliance with a State's Model Statute; require an attorney general or revenue department to maintain a list of Tobacco Product Manufacturers that are in compliance with a Settling State's laws; and subject violators to civil and criminal penalties and license revocation/suspension.

Complementary legislation has been effective in promoting compliance with the Model Statutes. This positive experience led the Tobacco Committee to create a Complementary Legislation Working Group, a multi-State staff-level group coordinated by the NAAG Tobacco Project. The Working Group was charged with developing draft

complementary legislation that could be recommended as a model to all of the Settling States. After extensive deliberations, the Working Group has now recommended model legislation to the Tobacco Committee, and the Committee has recommended that the Attorneys General of the Settling States give serious consideration to the legislation and designate its enactment a priority. The Committee believes that enactment of such legislation by all Settling States will promote the purposes the Model Statutes were designed to serve and safeguard payments to the Settling States that might otherwise be imperiled.

## II. COMPLEMENTARY LEGISLATION SUMMARY

The proposed model complementary legislation would require a state to maintain a directory of cigarette products that are permitted to be sold instate. The proposed legislation would prohibit the sale of products that are not listed in the directory. While all Tobacco Product Manufacturers would be required to make specific certifications *before* a brand could be listed in the directory, a Non-Participating Manufacturer would be further required to certify that: a) it is registered to do business in the state or has appointed an agent for service of process; b) it maintains a Qualified Escrow Fund with an executed qualified escrow agreement that has been reviewed and approved by the State; c) it is in full compliance with the escrow statute; and d) it identifies the financial institution where it has established such Qualified Escrow Fund and identifies all deposits and withdrawals to/from said fund. In addition, neither an NPM nor its brands will be listed in the directory unless all escrow payments for any period have been fully paid and all outstanding final judgments for violations of the Model Statutes fully satisfied.

The proposed model complementary legislation will also allow the Settling State through its attorney general or other official to request information to verify the accuracy of reported information and will further permit disclosure of information to other state agencies to facilitate investigation. Civil penalties, including injunctive relief and designation of product as contraband subject to seizure, forfeiture and destruction are among the penalties imposed.

The proposed requirements will ensure that a Tobacco Product Manufacturer has met certain obligations before being permitted to sell its products instate. This will help prevent significant periods of non-compliance and will reduce the expense and difficulty of enforcement actions against NPMs.

The proposed model complementary legislation is intended to complement Alaska's Model Statute (AS 45.53), but it does not replace or amend Alaska's Model Statute.

### III. SECTION REVIEW

#### *Section 1. Findings and Purpose*

Several Settling States emphasized that in order to assist with passage of a proposed model bill, it would be helpful, and in some cases, necessary to have a legislative declaration regarding the relationship between complementary legislation, fiscal soundness of the State and advancement of public health issues.

#### *Section 2.*

##### **AS 43.50.500**

- (a) Requires PMs to annually certify that they are a participating manufacturer. Requires NPMs to annually certify that they are in compliance with the model statute, AS 45.43.
- (b) Requires PMs to attach a list of its brands to its certification.
- (c) Requires NPMs to attach a list of its brands to its certification and provide information about its instate sales.
- (d) Requires NPMs to register to do business instate or appoint an instate agent for service of process. Requires NPMs to set up a "qualified escrow fund."
- (e) Requires NPMs to provide information about its qualified escrow fund.
- (f) Requires tobacco product manufacturers to affirm the identity of the brands it manufactures. This provision is intended to prevent a manufacturer from identifying a particular brand and then attempting to assert that another party, such as an importer or distributor, is responsible for escrow, other payment or certification obligations.
- (g) Requires tobacco product manufacturers to maintain sales records for five years.

##### **AS 43.50.510**

This section establishes the requirements for the directory to be maintained by the Department of Revenue for brands of tobacco products that may be sold in the state. The provisions of this section provide a means by which a cigarette seller will be able to ascertain if a particular brand of tobacco product may be permissibly sold in the State. In addition, this section requires that the Department of Revenue shall update the directory as necessary to keep it current. Notices provided by this section may be provided by electronic mail in order to reduce the cost and expense for disseminating any notices.

##### **AS 43.50.520**

- (a) This subsection establishes that it is unlawful to sell a product that is not

included in the directory.

(b) This subsection provides for a cigarette tax credit for licensees that permissibly import directory-listed cigarettes that are later de-listed prior to retail sale.

#### **AS 43.50.530**

This section requires any non-resident or foreign NPM to establish an agent for service of process before its brands may be included on the directory established in AS 43.50.510. The appointment of such an agent would be limited to actions arising out of the enforcement of the complementary legislation or the Model Statute, AS 45.53. Subsection (c) provides for service on the commissioner of the Department of Commerce and Economic Development for failure to appoint an agent.

#### **AS 43.50.540**

This section establishes the reporting requirements for licensees. This provision will allow monitoring of the sales activity of NPM product and provides an ongoing method to evaluate compliance. This section also provides the authority to share information obtained pursuant to the complementary legislation or Model Statute with the attorney general or other state agencies. The section also grants authority to request additional information as may be necessary to verify the accuracy of information reported and to provide actual product or label samples as may be necessary to effect the purpose of the statute. Finally, subsection (e) permits the adoption of regulations to require escrow deposits on a quarterly basis.

#### **AS 43.50.550**

This section provides for penalties for noncompliance. Penalties include:

- Revocation or suspension of a licensee's license and civil penalty.
- Designation of non-compliant NPM tobacco products as contraband, seizure and forfeiture of unlawful product.
- Injunctive relief against a licensee

#### **AS 43.50.560**

Subsection (a) establishes review procedures in accordance with a AS 44.62 (Administrative Procedure Act) for determinations regarding removal or non-listing of a tobacco product brand. Subsection (b) requires licensees to certify compliance with this law. Subsection (c) provides authority to promulgate regulations. Subsection (d) provides for disgorgement of any profits upon a finding of a violation by a court.

#### **AS 43.50.590**

Most of the definitions mirror those from the MSA or the Model Statute, AS 45.53.

*Brand Family* is intended to cover all variations of a brand of tobacco products that are sold instate. It is further intended to include the brand names of tobacco products that undergo slight modification as a means of evading liability under a Settling State's Model Statute. For example, in order to avoid an ongoing violation or potential injunction against a particular brand, some manufacturers have attempted to modify the name of a brand while maintaining the product the same, i.e., changing the brand name from Distinction to Distinctive or from Bloomberg to Blumburg.

*Section 3.* Conforming amendment to Administrative Procedures Act, AS 44.62.

*Section 4.* Repeal of existing complimentary legislation.

*Section 5.* Transition—initial compliance deadlines.

*Section 6.* Effective date.

#### **IV. ASSURANCES BY PARTICIPATING MANUFACTURERS**

After constructive deliberation with several Participating Manufacturers, Settling States and the PMs agreed upon certain assurances that the PMs would provide to the States. The assurances are intended to facilitate introduction and passage of Complementary Legislation in those States where there may be concerns that the proposed

Complementary Legislation may be construed as amending the Model Statute or MSA. The language agreed upon States in relevant part that:

the Settling States shall have no duty or obligation to enact the proposed Complementary Legislation or any similar bill, and failure to enact such legislation shall not be used against any State in any proceeding to determine whether that State has diligently enforced its escrow statute.... Additionally, enactment of the proposed Model Complementary Legislation (or similar bill containing no deviation of substance from the Model Complementary Legislation) shall not be construed as an amendment to the Model Statute or to the MSA and shall not constitute any breach of the MSA....

The NAAG Tobacco Project has secured assurances from the following Participating Manufacturers: Philip Morris, RJ Reynolds, Brown & Williamson, Lorillard, Caribbean-America Tobacco, Dharanj Imports, Japan Tobacco Int'l, King Maker, Konci G&D, Liggett, Lignum-2, Nat Sherman, Planta, PT Djarum, Santa Fe Natural Tobacco, Top Tobacco, Vector Tobacco, Virginia Carolina, and Wind River.

## V. CONCLUSION

The enactment of Complementary Legislation will streamline enforcement of the NPM Model Escrow Statutes, safeguard annual MSA payments and help combat the proliferation of youth smoking. The Attorneys General regard this legislation as extremely important and recommend that the proposed model Complementary Legislation be given legislative priority. Attorneys from the Alaska Department of Law as well as the NAAG Tobacco Project and the Complementary Legislation Working Group are available to answer additional questions on this issue of critical importance.