

11430 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES

Dear Rep. Peggy Wilson, HESS committee chair MAR 29 2005

We are asking that HouseBill 220 be scheduled a H.E.S.S. committee hearing.---The Bill pertains to psychiatric patients in Alaska.

The leading psychiatric patients' rights organizations have supported advancing patients' rights through a bill (HB 220) and have written letters stating their support. Many of the organizations have 5 or more Board members who voted, and represent several hundred constituents.

Disability Law Center (a 4 page letter) decision to write support letter voted on in committee.

National Alliance for the Mentally Ill, Anchorage, a very powerful 1 page letter--decision to write support letter voted on by Board.

N.A.M.I. Alaska--a one page letter--decision to write support letter voted on by Board.

Alaska Mental Health Consumer Web (a one page letter) decision to write support letter voted on by Board.

Aron Wolf, M.D. MMD., a one page letter

Psych-Rights--a one page letter

With the state's leading psychiatric rights organizations asking that this issue be advanced---It would only be right that HouseBill 220 be scheduled to go into the H.E.S.S. committee hearing so it can be discussed and passed.

Many of the people writing the 7 submitted support letters, including myself, have either had the experience of being in an Alaskan psychiatric institution or have had family members in psychiatric institutions, and are speaking from the heart and experience that things need to be changed.

And we ask again that HB220 be scheduled for hearing in the H.E.S.S. committee to be discussed and passed.

Thank you,

*Faith Myers*  
*Dorrance Collins*

Faith Myers  
Dorrance Collins  
330 E. 14th, Apt E.  
Anchorage, Ak. 99501  
(907) 929-0532

**Ray Gillespie**

**From:** "Patrick Higgins" <Patrick.Higgins@uhsinc.com>  
**To:** <Representative\_Les\_Gara@legis.state.ak.us>;  
 <Representative\_Ethan\_Berkowitz@legis.state.ak.us>;  
 <Representative\_Max\_Gruenberg@legis.state.ak.us>;  
 <Representative\_Eric\_Croft@legis.state.ak.us>; <Representative\_Jay\_Ramras@legis.state.ak.us>;  
 <Representative\_Lesil\_McGuire@legis.state.ak.us>;  
 <Representative\_Bob\_Lynn@legis.state.ak.us>; <Representative\_Pete\_Kott@legis.state.ak.us>;  
 <Representative\_Sharon\_Cissna@legis.state.ak.us>;  
 <Representative\_Beth\_Kerttula@legis.state.ak.us>  
**Sent:** Monday, March 28, 2005 4:57 PM

This e-mail is to express concerns regarding HB 220.

While I understand and appreciate the need to establish special rights for mental health patients, HB 220 creates special problems when applied to minors. As the largest mental health facility in Alaska serving patients 3 through 17 years old, and the only provider for children under the age of 13, HB 220 will generate a number of patient care issues for North Star Behavioral Health System. These issues include the following:

1. Adolescent boys and girls, pre-teen children, and even younger children, often have boundary issues involving sexual contact. It is not unusual for this population to seek the opportunity to establish unhealthy relationships with staff. For example, adolescent girls will often attempt to get the attention of male staff members. For this reason, we limit the placement of male staff in the adolescent girls unit. Under HB 220, adolescent girls will have the right to select male staff to monitor and/or assist them as an opportunity to expose themselves.

*anyone ↓ 18 if consent  
(consenting adults)  
can decide*

2. The "licensed medical provider" requirement will create significant problems to North Star. Each unit (children and adolescent) is staffed with one nurse and several Mental Health Specialists. Mental Health Specialists at North Star are hired with a degree in psychology or a related field, or they have the significant relevant education and experience. Mental Health Specialists monitor all patients for safety while the nurse is responsible for nursing care. Some patients must be monitored on a continuous basis in a one patient to one staff ratio due to safety concerns, even when the patient is in the restroom. HB 220 will not allow Mental Health Specialists from performing this function, since they are not a licensed medical care provider. Therefore, only the nurse will be legally allowed to assist these patients. Since there is only one nurse for each unit, we obviously do not have both a male and female nurse available at all times. Additionally, since there are very few male psychiatric nurses in Alaska, it will be close to impossible to increase staffing to fully comply with this law.

*can't find small RN's*

3. Requiring licensed staff to assist minor aged patients also seems unnecessary. With a nationwide shortage of nurses, the use of nurses to monitor and assist minors in the restroom does not appear to be best use of their skills. For example, under HB 220 it is my understanding that only a

nurse could assist a 3-year-old patient while they are using a restroom.

4. The decisions regarding the medical treatment of minors, including the selection of medical care providers, rests with the parent or legal guardian. For approximately 40 percent of our patients, the legal guardian is the State of Alaska (Office of Children Services). HB 220 would shift the medical provider gender selection to the minor. It is in the best interest of the minor that the parent or legal guardian continues to make all medical care decisions.

5. North Star Behavioral Health System has a policy that requires a staff member of the same gender be present in the room when a patient is disrobed for any reason. This policy addresses the safety of the patient as well as protecting the staff from allegations of improper conduct. Under HB 220, staff could be prevented from following this policy.

I appreciate and respect the goals of HB 220. But the application of this bill to minors creates serious patient care issues. Therefore, I would like to recommend that this bill not apply to patients under the age of 18.

Thank you for your consideration. If you have any questions or I can provide additional information to support your review and decision, please let me know.

Patrick Higgins  
HR Director, North Star Behavioral Health Systems  
2530 DeBarr Rd.  
Anchorage, Alaska 99508  
907-258-7575

Home Address:  
9140 Granite Place  
Anchorage, Alaska 99507  
907-349-3628

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Dear Rep. Peggy Wilson, HESS committee chair

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Thank you,

*Faith Myers*  
*Dorrance Collins*

Faith Myers  
Dorrance Collins  
330 E. 14th, Apt E.  
Anchorage, Ak. 99501  
(907) 929-0532

**Rep. Les Gara**

---

**From:** Jim Gottstein [jim@psychrights.org]  
**Sent:** Tuesday, March 22, 2005 10:37 AM  
**To:** Rep. Peggy Wilson  
**Cc:** Rep. Les Gara; jim@psychrights.org  
**Subject:** HB 220

Dear Representative Wilson,

This e-mail is to urge you to schedule a hearing on HB 220, which allows psychiatric patients a choice of gender for staff providing intimate care. Many psychiatric patients, including men, are the victims of sexual abuse and having intimate care provided by members of the same sex who committed the abuse can be very re-traumatizing. HB 220 addresses this basic right and I hope your committee will hear the bill and act favorably upon it.

Yours truly,

James B. (Jim) Gottstein, Esq.

Law Project for Psychiatric Rights  
406 G Street, Suite 206  
Anchorage, Alaska 99501  
Phone: (907) 274-7686 Fax: (907) 274-9493  
jim@psychrights.org  
<http://psychrights.org/>

**Psych Rights** ®

Law Project for  
Psychiatric Rights

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of unwarranted forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging procedures against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.

# Mental health patients could specify staff's sex

By LISA DEMER  
Anchorage Daily News

Patients receiving mental health treatment in a hospital would have the right to pick the sex of staff members providing their intimate care, under a bill filed in the Alaska Legislature on Wednesday.

The measure is being pushed by Faith Myers, a former patient at Alaska Psychi-

atric Institute who has been raising concerns about patient rights and privacy there.

Some patients at API have suffered sexual abuse. They may feel especially vulnerable to and wary of opposite-sex caregivers, Myers said. One former patient said last year

See Page B-5, TREATMENT

## TREATMENT: *Same sex*

*Continued from B-1*

that she had been fondled by a male staffer in 2000.

Last year, APT's governing board agreed to new policies and procedures to address some of Myers' concerns. If a patient requests it, at least one staff member of the same sex must be present if the patient needs help bathing, going to the bathroom or dressing, under a new procedure that Myers provided a copy of.

House Bill 220 goes further. It would grant mental patients in hospitals the right to request that hands-on care be given only by licensed staff members of the sex they specify. If a patient were incapacitated, care would be provided by someone of the same sex as the patient. If the hospital couldn't provide an appropriate staff member, that would be documented in the patient's file, under the bill.

"It's a matter of personal privacy and personal integrity,"

said state Rep. Les Gara, D-Anchorage and the prime sponsor. Six representatives have signed on as co-sponsors.

State Department of Health and Social Services officials haven't had a chance to review the bill but will do so soon, special assistant Sherry Hill said.

Myers and her partner, Dorance Collins, said they support the bill but want to change it so that API wouldn't be able to get around the requirement for lack of licensed staff.

The Disability Law Center of Alaska, the mental health advocacy organization NAMI, the Anchorage-based Law Project for Psychiatric Rights, the Alaska Mental Health Consumer Web and psychiatrist Aron Wolf all have written letters supporting legislation.

"We are outraged such a choice is not provided now," attorney Jim Gottstein of the PsychRights law project wrote in January.

Anchorage Daily News  
March 19, 2005



## Alaska Mental Health Consumer Web

1248 Gambell St.  
Anchorage, ALASKA 99501

Phone: 907.222.2980  
Fax: 907.222.2981

March 2, 2005

Faith Myers  
Dorrance Collins  
330 E. 14<sup>th</sup> Ave., Apt. E  
Anchorage, Alaska 99501

Dear Faith and Dorrance:

We at Alaska Mental Health Consumer Web would like to express our full support for your efforts to ensure the right of Alaskans undergoing mental health evaluation and treatment to choose the gender of their caregivers. Specifically, we wholeheartedly endorse the amendment of AS47.30.840 to include the right of Psychiatric patients to choose the gender of those that provide their care. It is our collective belief that this is not only a core human right, but also a matter of basic human dignity. For many years Alaskans have received care without regard to the gender of the provider. This practice has potentially violated the rights of thousands of Alaskan citizens and may have breached the boundaries of people who may have issues of sexuality and trust.

We again applaud your efforts and if I can be of further assistance please do not hesitate to contact me.

Sincerely,

Carl Ipock  
Executive Director  
Alaska Mental Health Consumer Web

March 1, 2005

Faith Myers,  
Dorrance Collins  
330 E. 14<sup>th</sup> Ave., Apt E  
Anchorage, Alaska 99501

Re; Psychiatric Staff Gender Rights

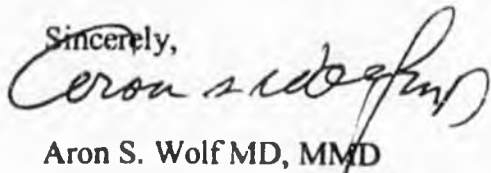
Dear Ms Myers and Mr. Collins,

I would very much support your efforts to amend AS47.30.840 to include a section acknowledging the right of Psychiatric patients to choose the gender of staff providing intimate care.

This is a very important issue as my Psychiatric inpatients already have significant issues with both sexuality and trust.

I believe that as a Physician this would be a significant step forward in providing the best and most therapeutic care for psychiatric patients throughout the State of Alaska. Please contact me if I can be of further assistance.

Sincerely,



Aron S. Wolf MD, MMD  
Distinguished Life Fellow American Psychiatry Association

Alaska Counseling, Inc.  
Parkway Professional Building II  
4120 Laurel St., Suite 102, Anchorage, Alaska 99508  
907.569.8600



**NAMI Alaska**

---

144 W. 15<sup>th</sup> Avenue  
Anchorage, AK 99501  
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(907) 277-1400 (fax)  
(800) 478-4462 (toll free)  
[www.nami-alaska.org](http://www.nami-alaska.org)  
[info@nami-alaska.org](mailto:info@nami-alaska.org)

February 28, 2005

Faith Myers  
Dorrance Collins  
330 E. 14<sup>th</sup> Avenue. Apt. E  
Anchorage Alaska 99501

Re: Psychiatric Staff Gender Rights

Dear Ms. Myers and Mr. Collins,

NAMI Alaska supports your efforts to amend AS47.30.840 to include a section requiring the right of psychiatric patients to choose the gender of staff providing intimate care.

Many persons with mental health issues already have significant problems with trust and issues pertaining to their bodies. To give them the opportunity to select a same sex care provider may keep from re-traumatizing someone who has been physically violated or inappropriately touched in the past.

The right to chose a same-sex care provider while in a vulnerable mental state should be a state mandated right to provide the best possible care for psychiatric patients in Alaska.

Sincerely,

*Beth LaCrosse*  
*by Tracy Barber*

Beth LaCrosse, President



**NAMI Alaska**

---

144 W. 15<sup>th</sup> Avenue  
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February 28, 2005

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Dorrance Collins  
330 E. 14<sup>th</sup> Avenue. Apt. E  
Anchorage Alaska 99501

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Sincerely,

*Beth LaCrosse*  
*by Tracy Barber*

Beth LaCrosse, President



**NAMI Anchorage**

*Anchorage's Voice on  
Mental Illness*

There is hope.

Trish McDonald  
Executive Director

Yvonne Akai Evans  
President

Eileen Davey  
Vice President

Roger Branson  
Secretary

Alina Blasiak  
Treasurer

Geno Daly  
Member at Large

Pat Kouris  
Member at Large

Megan Wilts  
Member at Large

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Anchorage, AK  
99524

Yvonne Akai Evans  
907.272.9952 direct

[yvon@gci.net](mailto:yvon@gci.net)

501 3 (c) non-profit  
corporation in  
Alaska since 1984

Faith Myers  
Dorrance Collins  
330 E. 14<sup>th</sup> Ave., Apt. E  
Anchorage, Alaska 99501

27 February 2005

Dear Faith and Dorrance:

We here at the National Alliance for the Mentally Ill, Anchorage Affiliate (NAMI-Anch) have received and support your request for psychiatric patients to have the ability, through existing law and the most basic of privacy rights, to request gender specific intimate care. We further feel that these rights need to be clearly enunciated and that an addition to AS 47.30.840 reflecting such is in order.

We concur with and support the position Disability Law Center has taken in their letter to you dated December 22, 2004 and support their further involvement in resolving this matter of extreme importance.

It is telling to us that we rarely hear of this issue in private facilities where patients and their families have the freedom and ability to select other service providers. We understand that public institutions operate on limited resources, however this most basic of human rights, the right to personal dignity, is one that cannot carry a price tag but must be provided for in public as well as private facilities.

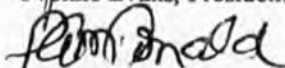
It is further troubling for us to realize that the staff making the majority of these decisions involving this most intimate of care are those who are the least trained. These staff members may well view their employment in the psychiatric care field as being transitory in nature and feel they have nothing or little to lose should a complaint regarding them be found to have merit. Our highest concern is that these individuals wield excessive physical and emotional power over these vulnerable persons and can too easily abuse the discretion given them to include suppressing complaints against them.

It is important to note that as State laws are currently being interpreted these basic rights to control who views and perhaps even touches our naked bodies may well be, and likely are being, violated without rising to the level of being a sexual assault or breaking any other laws. However, in this context, sexual assaults may well be, and quite possibly are being, committed with the vulnerable victim having little to no recourse, hope or even prayer of justice.

We urge our lawmakers to pass legislation which will protect individuals receiving this care.

Sincerely,

  
Yvonne Evans, President



Trish McDonald, Executive Director

Cc Ron Adler  
David Fleurant

# PsychRights

LAW PROJECT FOR

PSYCHIATRIC RIGHTS, INC.

406 G Street, Suite 206, Anchorage, Alaska 99501

(907) 274-7686 Phone ~ (907) 274-9493 Fax

<http://psychrights.org>

January 3, 2005

Faith Myers  
Dorrance Collins  
330 E. 14th Ave., Apt. E  
Anchorage, Alaska 99501

Re: Psychiatric Staff Gender Rights

Dear Ms. Myers and Mr. Collins:

The Law Project for Psychiatric Rights (PsychRights) unreservedly supports your efforts for legislative acknowledgment of the right for psychiatric patients to choose the gender of staff providing intimate care. We are outraged such a choice is not provided now. It is well known that many psychiatric patients (male as well as female) have been sexually assaulted or otherwise physically abused and that the failure to be sensitive to this issue is re-traumatizing and counter-therapeutic. Since the Alaska Psychiatric Institute is unwilling to recognize this and change its policy, a legislative directive is certainly in order.

PsychRights also concurs in the Disability Law Center's conclusion that Alaska patients already have such rights under the Alaska Constitution at least. If the 2005 Alaska Legislature fails to correct this outrage, I would encourage the Disability Law Center to pursue this through the courts.

Yours truly,



James B. (Jim) Gottstein, Esq.

cc: Ron Adler  
David Fleurant

**BANGOR MENTAL HEALTH INSTITUTE**

**DATE:** January, 2002

**POLICY NO:** 1-15

**PAGE:** 1 of 1

**SUBJECT:** Same Gender Care

It is the intent of Bangor Mental Health Institute to provide the same gender caregiver whenever requested by the patient while providing intimate care. We believe that by providing the same gender staff we are protecting patients' rights to privacy while treating them with dignity and respect. Refer to Nursing Procedure S-77A, Staffing Levels, for guidance in implementing this policy.

*Mary Louise McEwen*  
\_\_\_\_\_  
Superintendent

Replaces policy dated March, 1999

**BDS** Bangor Mental Health Institute

**Mary Louise McEwen, BSN, MBA**  
SUPERINTENDENT

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Post Office Box 926  
Bangor, Maine 04402-0926

*On page 1, 2 and 3  
the policys clearly  
state what actions  
will be taken to fulfill  
the patient's request  
for gender choice  
and notification  
when it is not.  
F.M.*



DISABILITY  
LAW CENTER  
OF ALASKA

### ANCHORAGE

3330 Arctic Boulevard  
Suite 103  
Anchorage, AK 99503  
(907) 565-1002  
FAX (907) 565-1000  
1-800-478-1234

December 22, 2004

Faith Myers  
Dorrance Collins  
330 E. 14<sup>th</sup> Ave., Apt. E  
Anchorage, Alaska 99501

Dear Faith and Dorrance:

I am in receipt of your letter wherein you request support from the Disability Law Center, Alaska's Protection and Advocacy agency for individuals with disabilities, in your efforts to secure "more rights" for patients at the Alaska Psychiatric Institute ["API"]. Specifically, you are advocating for a change in AS 47.30.840 that would, in effect, provide Alaskans undergoing mental health evaluation or treatment the right to choose the gender of the person providing them hands-on intimate care, such as toileting, bathing, diapering and dressing. You have asked the Disability Law Center to both confirm the legality of the requested statutory change and to voice support for your effort.

A review of statutory and judicial authority reveals a strong foundation of support for your legislative goal. In fact, securing the change in statute would not be bestowing 'more rights' onto patients, but would be a codification of an existing constitutional right that is not being acknowledged and protected. Based on this research, as well as common sense and decency, the Disability Law Center fully supports your effort.

It is clear that the State anticipates that some individuals admitted to API will require assistance with intimate care activities. The brief job description for a psychiatric nursing assistant that appears on the State's website describes the duties as follows:

Assist patients in occupational, recreational, and industrial therapy and school programs. Assist patients with daily routine activities *such as oral hygiene, preparing for meals, toileting, or preparing for bed.* Help with feeding of patients unable to feed themselves.

(Emphasis supplied). Acknowledging the need by some patients for this intimate assistance during a hospitalization, must these individuals submit themselves to care by a staff member of API's choosing, or do they have the right to choose the gender of the person viewing and touching their bodies? Do patients at API have a right to privacy?

Article I, Section 22 of the Constitution of Alaska provides that: "The right of the people to privacy is recognized and shall not be infringed." The specific enumeration of this right in Alaska's Constitution has been interpreted to

MEMBER OF THE  
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PROTECTION &  
ADVOCACY  
SYSTEMS

mean that Alaska's right to privacy is broader than that afforded by the United States Constitution. *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

Federal courts have clearly enunciated that encompassed within the right to privacy is the right to shield one's unclothed body from view. As the Ninth Circuit Court of Appeals held over forty years ago, "We cannot conceive of a more basic subject of privacy than the naked body. The desire to shield one's unclothed figure from view of strangers, and particularly strangers of the opposite sex, is impelled by elementary self-respect and personal dignity. *Story v. York*, 324 F.2d 450, 455 (9<sup>th</sup> Cir. 1963).

Many of the cases discussing this aspect of the right to privacy arose in the context of employment discrimination complaints against correctional facilities. These facilities were sued for restricting the gender of certain guard positions, in part, to protect the privacy rights of prisoners. The courts have held that this right is not destroyed simply because one is institutionalized. *Turner v. Safley*, 482 U.S. 78, 84. (1987) ("Prison walls do not form a barrier separating prison inmates from the protections of the Constitution."); *Robino v. Iranon*, 145 F.3d 1109, 1111 (9<sup>th</sup> Cir. 1998) ("[A] person's interest in not being viewed unclothed by members of the opposite sex survives incarceration.")

Most people, however, have a special sense of privacy in their genitals, and involuntary exposure of them in the presence of people of the other sex may be especially demeaning and humiliating. When not reasonably necessary, that sort of degradation is not to be visited upon those confined in our prisons.

*Lee v. Downs*, 641 F.2d 1117, 1119 (4<sup>th</sup> Cir. 1981).

There are a few cases that address the employment of gender specific individuals in psychiatric hospitals. Courts have recognized that, unlike prison guards, hospital staff can infringe significantly on a patient's privacy rights. "Treatment assistants at a state psychiatric hospital intrude on patients' privacy by performing duties involving intimate personal care such as 'assisting patients with toileting, disrobing, showering and cleaning their genitals,' as well as stripping patients before placing them into restraints and conducting bed checks of patients who sleep naked or whose nightwear comes off during sleep. *Olsen v. Marriott International, Inc.*, 75 F. Supp.2d 1052, 1062 (Ariz. 1999) quoting *Jennings v. New York State Office of Mental Health*, 786 F. Supp. 376, 382 (S.D.N.Y. 1992).

Obviously most people would find it a greater intrusion of their dignity and privacy to have their naked bodies viewed (or any number of personal services performed) by a member of the opposite sex. Although there will be a certain relinquishment of privacy by necessity when anyone is admitted to a hospital or mental health facility, this is not to say that a patient has forfeited all rights to privacy.

*Local 567 American Federation of State, County & Municipal Employees v. Michigan Council 25, American Federation of State, County & Municipal Employees*, 635 F.Supp. 1010, 1013-14 (E.D. Mich. 1986) (footnote omitted).

The court in *Jennings* distinguished the privacy rights of patients from that of prisoners.

The patients at OMH are not convicted criminals but instead are there as a result of civil commitments. Thus, their right to privacy may not be abrogated by virtue of their confinement in a state-run facility unlike a prison inmate who has forfeited some rights in repayment to society. The patients at OMH are just that, patients. They are vulnerable and mentally ill. Basic decency demands that their privacy be respected to whatever degree feasible.

*Jennings v. New York State Office of Mental Health*, 786 F. Supp. At 384. The federal district court in Michigan held that not only should the psychiatric hospital respect the privacy rights of their patients, but should assist in protecting those rights.

It is obvious that the law recognizes the privacy rights of these patients or residents and that the defendants had the right to protect these rights, possibly even more so in the case of mental health patients who are far more reliant on the protection of the defendants than patients in hospitals. Moreover the failure to recognize their privacy rights is contrary to the concept of normalization which recognizes that mentally handicapped persons have a right to lives as close as possible to that which is typical for the general population.

*Local 567 American Federation of State, County & Municipal Employees v. Michigan Council 25, American Federation of State, County & Municipal Employees*, 635 F.Supp. at 1013. See also *Jennings v. New York State Office of Mental Health*, 786 F. Supp. at 383 (“[T]he fact that a person does not assert his or her constitutional right does not mean that state run facilities are still not obligated to respect these same rights.”) “It would be a strange doctrine . . . that would decree that the sanctity of the right of privacy in the performance of the excretory functions, fully respected in a public restroom, is forfeited by the fact of falling ill and becoming hospitalized.” *Local 567*, 635 F.Supp. at 1014.

Sensitivity towards the privacy rights of patients would also seem to further the treatment goals for many individuals. A large number of women and men have been sexually abused and live with the devastating aftermath of such experiences. Many with histories of maltreatment are extremely sensitive to issues of privacy and violation of their privacy. Early on in their lives their sense of body integrity was invaded by the behaviors of their perpetrators. Being exposed to the invasion of privacy while dressing, showering, or using the toilet can cause flashbacks in some individuals of prior abuse experiences. In others it can cause embarrassment and a sense of shame, even if they have no history of prior maltreatment. The need for a safe place where one is not exposed to the dominate

and submission process is imperative. The only way to make that possible is for people to have choices. Without choice there is a potential for the reenactment of trauma.

It is therefore possible that being viewed naked by staff of the opposite gender can cause significant harm to patients. A serious risk of harm violates the Eighth Amendment of the U.S. Constitution, even if no harm has yet occurred. *Farmer v. Brennan*, 511 U.S. 825 (1994); *Helling v. McKinney*, 509 U.S. 25 (1993).

For the reasons set forth above, the Disability Law Center of Alaska enthusiastically supports your efforts to protect the privacy rights of patients at API through the legislative process. Please do not hesitate to contact me if there is anything this agency can do to assist you with your advocacy.

Sincerely,

DISABILITY LAW CENTER OF ALASKA

A handwritten signature in cursive script, appearing to read "David C. Fleurant". The signature is written in dark ink and is positioned above the typed name and title.

David C. Fleurant  
Executive Director

cc Ron Adler

# API patients soon to get more rights

■ **TENACIOUS:** One former patient fights for practices that will promote healing.

By **LISA DEMER**  
Anchorage Daily News

New policies and procedures born of the complaints of a former patient are gaining ground at Alaska's state mental hospital.

The changes at Alaska Psychiatric Institute stem from a push to expand patient rights and to end practices that the patient, Faith Myers, argued jeop-

ardize healing.

Myers, 53, has been hospitalized five times at API. She has schizophrenia.

After her most recent stay there last fall, Myers, along with her partner, Dorrance Collins, began raising concerns about male staffers working in women's living quarters, the inability of patients to pick treatment staffers of their own gender, and the hospital's complicated system for earning privileges, among other issues.

In all, they brought 19 specific complaints to the API governing board, the Alaska Mental Health Board, legisla-

tors, hospital inspectors and others.

The governing board provides oversight but normally does not investigate individual complaints. It created a grievance committee in April to handle Myers' concerns. The committee found that many were valid and recommended changes. On Thursday, the board accepted the committee's work and set deadlines for new policies and procedures.

"It's more than I ever thought I would get, but I still would like to see more," Myers said. She served on the committee along with Collins, current

and former API staff members, governing board members and an attorney with the Disability Law Center.

Myers' efforts will help the hospital improve, said Ron Adler, API chief executive officer. Staffers try to create a healing environment but the current, aging building can make that difficult, Adler said. A new hospital is being built on API's grounds and will be ready for patients by spring.

The governing board debated the grievance in a closed session because of confidential patient and staff information that was discussed, said Aleen

Smith, governing board chairwoman and a former API patient.

The board agreed that:

- API will create a written policy to prohibit staff members from routinely entering the living areas of opposite-gender patients. That has become the practice already, said Jane Barnes, API nursing director. Before, male staffers would go into women's bedrooms and bathrooms to, say, check on patients or perform housekeeping, and that traumatized and embarrassed women, My-

See Page B-7, API

## API: Former patient fights for and gets changes

Continued from B-1

ers said.

- The hospital should make every effort to allow patients to pick between a male or female doctor, therapist or off-grounds escort. Myers had wanted patients to be given an absolute right to pick the gender of a staff member providing intimate care. She said she will seek legislation to accomplish that.

- API will rethink its system in which patients earn privileges, with a new system to be in place by 2006. Currently patients can gain privileges such as going to arts and crafts class or ordering out for food if they cooperate in treatment and function well. Different API units operate under different systems, and patients struggle to understand them. Adler said later that some hospitals abandon such systems altogether and work with each patient individually.

- Treatment documents must be legible and understandable. Patients had been labeled as uncooperative if they wouldn't sign a treatment plan because they couldn't read it or it contained jargon. Hospital medical director Duane Hopson was asked to issue a directive on legibility.

- All patients must be allowed a chance to go outdoors or, if the weather doesn't allow it, to the hospital gym. In the past, some patients were restricted to their living units because of safety or treatment issues. The medical team at API agreed with Myers that that wasn't a good practice and has begun to allow them to get exercise and fresh air, Adler said.

- Myers also had wanted hospital staff members to wear uniforms or at least vests so that patients could easily distinguish hospital employees from other patients, especially when someone is giving orders. Adler said the hospital will adopt a more professional dress code but uniforms look too institutional.

"I can promise you we are not going to go down that road," he said later.

Myers' concerns about privacy were especially important, said Edie Zukauskas, the Disability Law Center attorney who served on the committee at the request of the hospital and Myers.

Psychiatric patients are particularly vulnerable and often are not aware of their rights, she said. "We have been favorably

impressed with API's response to this grievance," she said.

At API, two-thirds of the psychiatric nursing aides, who provide most of the direct care, are men, as are three-quarters of the psychiatrists and psychologists. But most of the nurses and social workers are women. As of Friday morning, API had 60 patients — 36 men and 24 women.

Myers said many women patients have suffered from sexual abuse and may feel threatened anew in the hospital by male staffers.

One former API patient, Rosslyn "Ross" Wetherborn, told the governing board in April that she was sexually abused — fondled and propositioned — by a male staff member in 2000. She didn't report the abuse initially, she said in a telephone interview. The hospital addressed the problem recently, after she posted information on a mental health consumers online information network, Wetherborn said. Adler seemed genuinely concerned, she said.

Since he came on board in March 2003, every complaint of sexual misconduct at API has been investigated and usu-

ally referred to police, Adler said. There are few such complaints each year and about as many are between patients as between staffers and patients, he said.

In the new hospital, patients will have private bedrooms and bathrooms. Their rooms also will be monitored so that if someone steps in unwanted, a nurse will know immediately, he said.

Myers said she was disappointed the hospital did not commit to putting more changes into written policy.

In the meantime, a suit filed on her behalf against the hospital is awaiting a state Supreme Court ruling on an appeal.

The suit aims to prohibit the hospital from forcing patients to take medication unless it can prove it is in their best interest. Myers has argued that it should be her choice and that she is now on an antipsychotic drug that helps her. A state Superior Court judge in a preliminary ruling sided with the hospital, and Myers has appealed.

■ Daily News reporter Lisa Demer can be reached at [ldemer@adn.com](mailto:ldemer@adn.com) and 257-4390.

Anchorage Daily News

July 26, 2004

**HB**

**225**



# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB225-DHSS-DPH--03-30-05  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services

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

Title RELATING TO MEDICAL EXAMINERS AND DEATH EXAMINATIONS

RDU Public Health

Component State Medical Examiner

Sponsor MCGUIRE

Requester HOUSE (HES)

Component No. 293

**Expenditures/Revenues**

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
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 (FY2005) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:**

(Attach a separate page if necessary)

This bill would amend current law to give the Deputy Medical Examiner the same authorities and duties as the State Medical Examiner. It also would add a mandate that the Commissioner "shall" appoint a Deputy Medical Examiner (current law allows that the Commissioner "may" appoint a Deputy M.E.), and clarifies that the Commissioner may appoint Assistant Medical Examiners.

The Governor's proposed FY06 operating budget for the State Medical Examiner's Office will support this proposed bill, as the budget includes funding for both the State Medical Examiner and the Deputy Medical Examiner positions. There currently are no Assistant Medical Examiners established and funded in the budget, but since this bill does not require the Commissioner to appoint Assistant Medical Examiners, no additional funding is required for this legislation.

Prepared by: Richard Mandsager, M.D.

Division: Public Health

Phone: 465-3090

Date/Time: 03/29/2005

Approved by: Joel S. Gilbertson, Commissioner

Date: 03/30/2005

Agency: Department of Health and Social Services

# ALASKA STATE LEGISLATURE

Session  
State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
Fax (907) 465-6592

Interim  
716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0250  
Fax (907) 269-0249

**REPRESENTATIVE LESLIE MCGUIRE**  
**HOUSE DISTRICT 28**

Chair  
Judiciary Committee

Member  
House Leadership  
Rules Committee  
Health, Education  
& Social Services  
Committee  
Oil & Gas Committee  
Military & Veterans'  
Affairs Committee

## MEMORANDUM

To: Representative Wilson

From: Representative Leslie McGuire

Date: March 23, 2005

Re: Request for hearing - HB 225, "*An Act relating to medical examiners and medical death examinations.*"

---

I respectfully request that HB 225, "*An Act relating to medical examiners and medical death examinations*" be scheduled for a hearing at your earliest convenience. Attached you will find the bill packet containing the most current version of the bill, sponsor statement and background information.

If you have any questions or concerns please feel free to contact me personally, or my staff, Shalon Szymanski at (907) 465-6841. Thank you for your time and consideration.

# ALASKA STATE LEGISLATURE

## Session

State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
Fax (907) 465-6592

## Interim

716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0250  
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**REPRESENTATIVE LESLIE MCGUIRE**  
**HOUSE DISTRICT 28**

Chair  
Judiciary Committee

Member  
House Leadership  
Rules Committee  
Health, Education  
& Social Services  
Committee

Oil & Gas Committee  
Military & Veterans'  
Affairs Committee

## SPONSOR STATEMENT HB 225

*"An Act relating to medical examiners and medical death examinations."*

Last year alone, there were nearly 1,100 cases filed with the State of Alaska's medical examiner's office. All of these cases require responsibilities ranging from autopsies, administrative duties and legal responsibilities, such as testifying in court. With this sizeable caseload for our state, how many medical examiners do we have to handle it? The answer is, one.

Our one state medical examiner has been stretched so thin with this caseload that he has been forced to decide which cases will actually receive autopsies. Currently autopsies are required only when the death was suspicious or if there was a crime involved. When forced to pick and choose from the remaining cases, something could be overlooked in these remaining cases that did not receive the attention they should have. We also have to consider what would happen if our one medical examiner became ill or for any reason could not fulfill his duties.

The position of the state medical examiner is a critical function in the state and a tremendous responsibility. It is a responsibility not only to the families and friends of the victim, but also to the community as a whole. The fact that there is such a large caseload for only one medical examiner has become a growing concern for policy makers, police officers and the community.

Under current state law, the commissioner of health and social services is required to appoint only a medical examiner. HB 225 would require the commissioner of health and social services to appoint both a chief medical examiner and a deputy medical examiner to share the extensive workload.

**HB**

**231**



# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 231(CRA)  
 (H) Publish Date: 4/8/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title HUMAN SERVICES GRANT ELIGIBILITY RDU Comm Assist & Ec Dev (405)  
 Component Community Advocacy  
 Sponsor Wilson  
 Requester House Community & Regional Affairs Component No. 2703

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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>						
-----------------------------	--	--	--	--	--	--

<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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 231 amends the definition of municipality under AS 29.60.650(2) for purposes of qualifying for and sharing a human services community matching grant. It would not have a fiscal impact on the operations of the department.

Prepared by: Michael Black, Director Phone 269-4535  
 Division Community Advocacy Date/Time 4/6/05 3:48 PM  
 Approved by: Edgar Blatchford, Commissioner Date 4/6/2005  
 Agency Commerce, Community, and Economic Development

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2  
 Bill Version: CSHB 231(CRA)  
 ( H ) Publish Date: 4/8/05  
 Dept. Affected: Health & Social Services  
 RDU Human Svcs Comm Matching Grant  
 Component Human Svcs Comm Matching Grant

Revision Date/Time (Note if correction):  
 Title HUMAN SERVICES GRANT ELIGIBILITY

Sponsor WILSON  
 Requester H CRA

Component No. 1821

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES (0)</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
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 (FY2005) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The current proposed legislation does not require an increased cost, as such the fiscal note is zero. However, the legislation will profoundly impact municipalities who are eligible for this program based on the amount available. There are two attachments that outline the fiscal impact to communities based on two different assumptions.

The first scenario assumes that 1) this legislation would pass and that 2) two additional regions would qualify for participation and 3) that no additional funds are appropriated for the Human Services community matching program. If that were the case then Anchorage, Fairbanks and Mat-Su would see a reduction due to the pro-rated nature of the program.

Prepared by: Janet Clarke, Assistant Commissioner Phone 465-1630  
 Division Finance & Management Services Date/Time 04/06/2005  
 Approved by: Joel S. Gilbertson, Commissioner Date 04/06/2005  
 Agency Department of Health and Social Services

FISCAL NOTE  
FN # 2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

CSHB 231(CRA)

**ANALYSIS CONTINUATION**

Under scenario #1, Anchorage would lose \$166,875; Mat-Su would lose \$34,608 and Fairbanks would lose \$57,974; but The Gulf Coast region would be eligible for a new program grant of \$159,114 and Southeast would see a new grant program of \$151,024.

The second scenario assumes that 1) the legislation would pass and 2) the same two regions would participate in the program and 3) the Legislature would appropriate additional funds to hold all communities harmless. That second scenario would require an increased appropriation of \$394,204 to the Human Services Community Matching Grant so that all communities would be held harmless. This would bring the Human Services Community Matching Grant appropriation up to \$1,629,504.

## FISCAL NOTE # 2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSHB 231(CRA)

ANALYSIS CONTINUATION

Table 2.1 Population of Alaska by Labor Market Area, Borough and Census Area

Assumption: Gulf Coast Region enters as a block. Southeast enters as a block. Anch, Mat-Su &amp; Frbks stay solo.

Total funding: \$1,235,300

Shaded cells indicate participation in HSCMG

AREA NAME		%	2005 current grants	2006 Governor 1,235,300	effect on current grantee
1 Anchorage Mat-Su Region	347,646				
Municipality of Anchorage	277,498	48.04%	760,300	593,425	(166,875)
Matanuska-Susitna Borough	70,148	12.14%	184,618	150,010	(34,608)
2 Gulf Coast Region	74,405	12.88%	-	159,114	
Kenai Peninsula Borough	50,980				
Kodiak Island Borough	13,466				
Valdez-Cordova Census Area	9,959				
3 Interior Region	99,290				
Denali Borough	1,842				
Fairbanks North Star Borough	84,979	14.71%	239,700	181,726	(57,974)
Southeast Fairbanks Census Area	6,192				
Yukon Koyukuk Census Area	6,277				
4 Northern Region	23,813				
Nome Census Area	9,403				
North Slope Borough	7,104				
Northwest Arctic Borough	7,306				
5 Southeast Region	70,622	12.23%	-	151,024	
Haines Borough	2,245				
Juneau City and Borough	30,966				
Ketchikan Gateway Borough	13,030				
Prince of Wales-Outer Ketchikan Cen	5,548				
Sitka City and Borough	8,805				
Skagway-Hoonah-Angoon Census Ar	3,101				
Wrangell-Petersburg Census Area	6,247				
Yakutat City and Borough	680				
6 Southwest Region	39,659				
Aleutians East Borough	2,629				
Aleutians West Census Area	5,239				
Bethel Census Area	16,853				
Bristol Bay Borough	1,096				
Dillingham Census Area	4,845				
Lake and Peninsula Borough	1,603				
Wade Hampton Census Area	7,394				
	577,652	100.00%	1,184,618	1,235,300	(259,456)

Source: Alaska Department of Labor and Workforce Development, Research and Analysis.

July 1 provisional estimate

2004

Alaska

655,435

FISCAL NOTE # 2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSHB 231(CRA)

**ANALYSIS CONTINUATION**

Assumption: Gulf Coast Region enters as a block. Southeast enters as a block. Anch, Mat-Su & Frbks stay solo.  
Total Funding: \$1,629,504  
Shaded cells indicate participation in HSCMG

AREA NAME		%	2005 current grants	2006 Governor \$1,629,504	effect on current grantee
1 Anchorage Mat-Su Region	347,646				
Municipality of Anchorage	277,498	48.04%	760,300	782,814	22,514
Matanuska-Susitna Borough	70,148	12.14%	184,618	197,822	13,204
2 Gulf Coast Region	74,405	12.88%	-	209,880	
Kenai Peninsula Borough	50,980				
Kodiak Island Borough	13,466				
Valdez-Cordova Census Area	9,959				
3 Interior Region	99,290				
Denali Borough	1,842				
Fairbanks North Star Borough	84,979	14.71%	239,700	239,700	-
Southeast Fairbanks Census Area	6,192				
Yukon Koyukuk Census Area	6,277				
4 Northern Region	23,813				
Nome Census Area	9,403				
North Slope Borough	7,104				
Northwest Arctic Borough	7,306				
5 Southeast Region	70,622	12.23%	-	199,288	
Haines Borough	2,245				
Juneau City and Borough	30,966				
Ketchikan Gateway Borough	13,030				
Prince of Wales-Outer Ketchikan Census Area	5,548				
Sitka City and Borough	8,805				
Skagway-Hoonah-Angoon Census Area	3,101				
Wrangell-Petersburg Census Area	6,247				
Yakutat City and Borough	680				
6 Southwest Region	39,659				
Aleutians East Borough	2,629				
Aleutians West Census Area	5,239				
Bethel Census Area	16,853				
Bristol Bay Borough	1,096				
Dillingham Census Area	4,845				
Lake and Peninsula Borough	1,603				
Wade Hampton Census Area	7,394				
	577,652	100.00%	1,184,618	1,629,504	35,718

Table 2.1 Population of Alaska by Labor Market Area, Borough and Census Area  
Source: Alaska Department of Labor and Workforce Development, Research and Analysis.  
July 1 provisional estimate 2004  
Alaska 655,435

# ALASKA STATE LEGISLATURE

*Interim:*  
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Wrangell, AK 99929  
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*Session:*  
State Capitol, Room 108  
Juneau, AK 99801-1182  
Phone: (907) 465-3824  
1-800-686-3824  
Fax: (907) 465-3175

**REPRESENTATIVE PEGGY WILSON  
HOUSE DISTRICT 2**

## SPONSOR STATEMENT

### CSHB 231 "HUMAN SERVICES GRANTS" (C&RA)

HB 231 "Human Services Grants" would expand the definition of a qualified municipality to include a consortium of municipalities located in the same geographic region with a population that exceeds 50,000. This would allow an organization such as Southeast Conference to form a consortium to receive program funding for social services in their region.

AS 29.60.600 establishes the Human Services Community Matching Grants program for qualified municipalities. To qualify for a grant under this section, a municipality is required to 1) provide a 30 percent funding match; 2) comply with grant application procedures; and 3) establish a citizen's advisory group to help establish priorities and allocations amongst the services funded.

The following organizations are currently providing services in Southeast Alaska. Under HB 231 they would be qualified to receive funding through the Human Services Community Matching Grants Program if a consortium of communities was formed in Southeast Alaska.

Center for Community  
United Way  
Alaska Health Fair, Inc.  
Southeast Alaska Food Bank

Catholic Community Services  
AWARE  
Alaska Legal Services  
Southeast Senior Services

Any consortium formed under HB 231 would be required to provide for the necessary 30 percent matching funds and would have to establish a citizens' advisory group.

This is a fairness issue. Due to distance it is difficult, if not impossible, for Southeast residents to access programs that are currently funded by the Human Services Matching Grants. This important source of funding should be available to a geographic area that has a combined population of 35,000 or more. I ask for your support of CSHB 231.

## CSHB 231 TALKING POINTS

The Human Services Community Matching Grants program is receiving \$1,235,300 in state general funds for FY '06.

This Human Services Community Matching Grants program is for qualified municipalities. A qualified municipality is required to 1) provide a 30 percent funding match; 2) comply with grant application procedures; and 3) establish a citizen's advisory group to help establish priorities and allocations amongst the services funded. To receive these funds a community must apply by October of the preceding year. It is the intent of CSHB 231 that any newly qualified consortiums would have to apply by October of 2005 and be included in the FY '07 budget.

Currently the qualified communities include Fairbanks, Anchorage and Mat-Su. I have provided a list to the committee of the sub recipients of those grants. As you can see by looking over this list many valuable community services are receiving these funds. This enables Beans Café to serve more meals to needy people. It provides funding for Abused Women's Aide in Crisis; it enables the Salvation Army to better serve needy Alaskans. It helps pay for After School Programs, as well as Basic Services for Older Adults. This is all well and good and I support these efforts.

CSHB 231 is a fairness issue. Due to distances it is difficult, if not impossible, for residents many, many miles from our three largest communities to access these important services. Under CSHB 231 municipalities and boroughs located in the same geographic region with a population that exceeds 35,000 could form a consortium to qualify for the Human Services Community Matching Grants program. Any consortium formed under CSHB 231 would be required to provide the 30 percent matching funds and would have to establish a citizens' advisory group.

The accompanying fiscal note assumes that two additional geographic regions would be eligible for these funds. The first being the Gulf Coast Region that encompasses Kenai Peninsula Borough, Kodiak Island Borough and the Valdez - Cordova Census Area. The other is the Southeast Region. I have given the members a print off from the Southeast Conference web site. If HB 231 were enacted it is planned that Southeast Conference would assist with formation of the required consortium. The map on their home page print out shows the 25 communities that are currently members of the Southeast Conference.



# Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-0650 • Telephone: (907) 343-4431 • Fax: (907) 343-4499 <http://www.muni.org>

Mayor Mark Begich

Office of the Mayor

APR 11 2005

April 7, 2005

The Honorable Kurt Olson  
The Honorable Bill Thomas, Jr.  
Co-Chairs, House Community and Regional Affairs Committee  
Capitol Building  
Juneau, AK 99811

VIA Fax: 465-3835

Dear Representatives Olson and Thomas:

The Human Services Matching Grant is a legislative priority for the Municipality of Anchorage. This grant, funded and administered by the State of Alaska, Department of Health and Social Services, makes it possible for non-profits to provide essential funds for "safety net" services to the poor and vulnerable. This funding provides shelter for homeless women and children and families, food for the hungry, health care, substance abuse treatment, mentoring for youth, and child care, among other essential services.

Since 1981, these grants have been awarded to Anchorage and Fairbanks and are matched by funds from the two municipalities. In Fiscal Year 05, the Matanuska-Susitna Borough was added, although the amount of the grant was not increased. The need for more services increases, yet the funding has been cut and another community has been added.

HB 231 would change the definition of municipality for the purposes of the HSMG. We support more communities having access to apply for this grant. We are, however concerned that there will now be a number of other municipalities applying for the same small amount of funds. We would support this bill if the funding was restored to the levels of four years ago to \$2.2 million. Thank you for your consideration.

Sincerely,

Mark Begich  
Mayor

C: House CRA members

*Community, Security, Prosperity*



MAR 25 2005

## **Center for Community - Sitka, Alaska**

CFC is a state-wide provider of home and community-based services for people with disabilities, the elderly and others who experience barriers to community living in Alaska. It helps people so they can have the opportunity to exercise choice in where and how they live and how they participate in community life.

### **Care Coordination**

Helping individuals and their families coordinate supportive and rehabilitative services.

### **Supported Living Services**

Providing supports and instruction for people with developmental and other disabilities to acquire the skills they need to live in their own homes and participate in community life.

### **Personal Care Services**

Professional in-home care for temporary or long-term personal care needs resulting from a disability or illness.

### **Respite Care Services**

Providing a needed break for caregivers and families of people with disabilities, Alzheimer's and other dementia, and frail seniors.

### **Vocational Rehabilitation**

Job assessment, training and placement for people with disabilities and other personal barriers to employment.

### **Early Learning Program**

Early intervention education and prenatal developmental enhancement programs for children age birth to six. Offering: prenatal classes, home visits, parenting classes and play groups.

### **Welfare to Work Program**

Case management, job training, support services and job placement for people receiving public assistance or other welfare benefits.

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## **Catholic Community Service - Juneau, Alaska**

Catholic Community Service advocates and offers social service opportunities for all Southeast Alaskans, emphasizing social justice and compassion. accomplish this mission by fostering the self-sufficiency and dignity of individuals and families affirming diversity in culture, faith and way of life.

### **Southeast Senior Services**

Programs include nutrition, transportation and support.

### **Childcare and Family Resources**

Programs include Healthy Families Juneau, Healthy Change, Young Parent's Center, Childcare Assistance, Family Resources Center, Parents Anonymous, Children of Incarcerated Parents, Children of Incarcerated Parents Mentoring, SAFE Child Advocacy Center and Comprehensive Family Support.

### **Hospice and Homecare of Juneau**

Programs include skilled nursing care, physical therapy, occupational therapy, speech therapy, home health aides, social work, infusion therapy, hospice and palliative care, bereavement support and volunteer services.

**United Way of Southeast Alaska  
Member Agencies' Regional Outreach  
2004**

	Angoon	Craig	Gustavus	Haines	Hoonah	Hydaberg	Hyder	Juneau	Kake	Ketchikan	Klawock	Klukwan	Metlakatla	Petersburg	Port Alexander	Sitka	Skagway	Tenakee Springs	Thorne Bay	Ward Cove	Wrangell	Yakutat
Aiding Women in Abuse & Rape (AWARE)			X	X	X			X				X					X	X				X
Alaska Health Fair, Inc.								X														
Alaska Legal Services								X		X												
American Red Cross, SE AK Chapter		X	X	X	X		X	X	X	X		X	X	X		X	X		X		X	X
Association for the Education of Young Children	X	X		X	X		X	X	X	X		X	X	X		X	X		X		X	X
Big Brothers Big Sisters of SE AK				X	X		X	X		X		X	X			X	X					
Boys and Girls Club of Juneau	X					X	X	X	X	X			X	X							X	
Catholic Community Service	X	X		X	X	X	X	X	X	X	X	X	X			X	X				X	X
Center for Community	X	X	X		X	X	X	X	X		X	X	X	X		X			X		X	X
Gastineau Human Services, Corp.								X														
Girl Scouts, Tongass AK Council	X	X		X	X			X	X	X			X	X		X		X	X		X	X
Glory Hole								X														
Helping Hands								X														
Hospice & Home Care of Juneau								X														
Hospice of Haines				X																		
Ketchikan Committee for the Homeless (PATH)										X												
National Council on Alcoholism & Drug Dependence	X	X		X				X	X		X								X			
National Senior Service Corps.					X			X		X												
Planned Parenthood of Alaska																X						
REACH, Inc.				X	X			X						X			X				X	X
St. Vincent de Paul	X	X		X	X			X		X				X								
Shanti of SE Alaska								X														
Sitkans Against Family Violence	X								X						X	X						
Sitka Counseling & Prevention																X						
Southeast Alaska Area Council Boy Scouts of America		X	X	X	X			X	X	X	X		X	X		X	X		X	X	X	X
Southeast Alaska Food Bank								X														
Southeast Alaska Guidance Assoc. (SAGA)								X														
Southeast Alaska Independent Living/ORCA	X	X		X	X			X	X	X	X		X	X		X		X		X	X	X
Southeast Regional Resource Center (SERRC)	X	X	X	X	X	X		X	X	X	X		X	X		X	X				X	X
Transitional Living Center										X												
United Way of Southeast Alaska				X				X		X						X						
Youth Advocates of Sitka, Inc.																X						
Zach Gordon Teenage Club								X														

MAR 25 2005

2005 Human Services Community Matching Grant – Sub Recipient List

Fairbanks

Alaska Legal Services Corporation  
Bib Brothers Big Sisters  
Fairbanks Community Good Bank Service  
Interior Community Health Center  
Interior Aids Association  
North Star Council on Aging  
North Star Youth court

Anchorage

Alaska Legal Services  
Abused Women's Aide in Crisis  
American Red Cross  
Anchorage Neighborhood Health Center  
Beans Café  
Catholic social Services – Francis House  
Catholic Social Services = Claire House  
Catholic Social Services – Beyond Shelter  
Food Bank of Alaska  
Mabel T Caverly  
Salvation army – McKinnel Shelter  
Salvation Army Older Alaskans 18-59 Homebound Disabled  
Salvation Army – Older Alaskans Frail Elderly 70+  
Salvation Army Cares for Kids

Mat-Su

Palmer Senior Citizens Center for Mat-Su Senior Care Continuum Project  
Mat-Su Services for Children and Adults for Community Living Services for Local  
Residents with Developmental Disabilities  
Kids Are People, Inc for the Saxton Youth Shelter  
Alaska Family Resource Center and Mat-Su recovery Center for the Women's  
Reunification and Action Program  
Alaska Legal Services for the Mat-Su Children at Risk Project  
Alzheimer's Disease Resource Agency for the Alzheimer's Disease and Related  
Disorders Education and Support Project  
Salvation Army, Mat-Su Valley Corps for the Salvation Army After School Program  
Access Alaska for Health and Accessibility Assistance for Disabled Mat-Su Valley  
Residents  
Wasilla Senior Center for Basic Services for Older Adults



# Alaska State Legislature

Representative Peggy Wilson

House District 2

Putting Alaska's Families First

## MEMORANDUM

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Date: March 25, 2005

To: Representative Kurt Olson Co-Chair House C & RA

From: Representative Peggy Wilson *PW*

Re: HB 231 "Human Services Grant Eligibility"

This is a request to have HB 231 "Human Services Grant Eligibility" calendared for a hearing before the House Community and Regional Affairs Committee as soon as possible.

HB 231 "Human Services Grants" would expand the definition of a qualified municipality to include a consortium of municipalities located in the same geographic region with a population that exceeds 50,000. This would allow an organization such as Southeast Conference to form a consortium to receive program funding for social services in their region.

I have attached the sponsor statement and a copy of the legislation. Thanks for your consideration.

*80'S STARTED*

APR 12 2005

**To: Members of the Senate Finance Committee**

**From: Carter Crawford, concerned citizen [tpc-ccrawford@gei.com](mailto:tpc-ccrawford@gei.com) 4/11**

**Pers/Ters is not your only nightmare. Consider the Billion Dollar Health and Social Department Budget!**

**And think about just some of the costs associated with Alaska's health/social services:**

**\$55,000 to over \$110,000 to incarcerate one person for a year**

**\$107 a week in Food Stamps for a family of 4**

**\$600 million for Substance Abuse**

**The costs for detection, adjudication, care or incarceration for everything from domestic abuse, FAS, Foster Care, DUI are mind-boggling.**

**BUT THERE IS A SOLUTION. THE [REDACTED]  
(HEALTH/SOCIAL) SERVICE GRANT.**

**THIS GRANT DOES EVERYTHING YOU WANT AND NEED**

**IT PROVIDES ESSENTIAL STATE SERVICES FOR ALASKANS AT 25-50% OF THE STATE'S COSTS**

**IT SAVES THE STATE HSS MILLIONS**

**IT IS A MODEL FOR PUBLIC PRIVATE PARTNERSHIP, USING SOME STATE MONEY, A MATCH FROM THE MUNICIPALITY AND THEN A 4-10 IN KIND MATCH FROM THE NON-PROFIT**

**EVERY RECIPIENT IS UNDER INTENSE LOCAL SCRUTINY, AND EVERY GRANT IS SCORED FOR ITS ABILITY TO MEET LOCAL NEEDS.**

**WHERE DOES THE COMMUNITY GRANT MONEY GO**

**FOOD INSTEAD OF FOOD STAMPS  
COUNSELING FOR DOMESTIC VIOLENCE INSTEAD OF COURTS AND INCARCERATION  
ACTIVATES FOR TEENS INSTEAD OF ADJUDICATION  
FAMILY PLANNING INSTEAD OF ABORTION AND EVEN FAS  
VOCATIONAL TRAINING AND JOBS INSTEAD OF UNEMPLOYMENT BENEFITS**

**There is simply no better bang for the buck that the Community Human Services Grant. By funding the full \$2.2 million request you will save the state over \$8 million in costs that the Community Grant can prevent or administer instead of the state. The \$2.2 represents the addition of the Mat-Su and the restoration of funding cuts from prior years in Fairbanks and Anchorage.**

**On the next page is a continuing idea on finding money to fund it.**

---

**From:** Rep. Peggy Wilson  
**Sent:** Tuesday, April 12, 2005 3:45 PM  
**To:** Kathy Hope Erickson  
**Subject:** FW: New Pom:Budget

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

**From:** POMS@legis.state.ak.us [mailto:POMS@legis.state.ak.us]  
**Sent:** Tuesday, April 12, 2005 1:57 PM  
**To:** Rep. Peggy Wilson  
**Subject:** New Pom:Budget

Jacquelin Williamson  
660 Wilcox Ave #16

Fairbanks 99709,  
479-8248

Please support funding for HSS Community Matching Block Grant at the \$2.2 Million level as requested. Fairbanks North Star Council on Aging is a non-profit affected by this bill and the loss of funding would reduce our ability to operate meals on wheels program while increasing health care costs.

**HB**

**258**



# Alaska State Legislature



## Chairman

Military & Veterans' Affairs Committee

## Member

Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade & Tourism  
Committee

Education Committee

Joint Armed Services Committee

## Finance Subcommittees

Labor & Workforce Development

Community & Economic Development

Military & Veterans' Affairs

## Session:

Alaska State Capitol  
Juneau, AK 99801-1182

Phone: (907) 465-4931

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716 W. 4<sup>th</sup> Ave., #650  
Anchorage, AK 99501-2133

Phone: (907) 269-0205

Fax: (907) 269-0207

*A Communication From*  
**REPRESENTATIVE BOB LYNN**  
**District 31 Anchorage**

**E-Mail:** [Representative\\_Bob\\_Lynn@legis.state.ak.us](mailto:Representative_Bob_Lynn@legis.state.ak.us)  
**"Bob Lynn's Alaska Blog"** [AlaskaDistrict31.blogspot.com](http://AlaskaDistrict31.blogspot.com)

## SPONSOR STATEMENT HB 258

### "An Act relating to aggravating factors at sentencing."

By Representative Bob Lynn

Released: Feb. 27, 2006

HB 258 would make sexual assault by persons who have been previously diagnosed as having or having tested positive for HIV or AIDS an aggravating factor at sentencing.

Sexual assault is painful enough. The mere possibility of HIV-transmission – accompanied by the sheer terror of six months or more of testing that may reveal a life-threatening infection – raises this crime to a more heinous level.

"I cannot fathom on the face of the earth a more devastating offense to a victim than being sexually assaulted by a person with AIDS. The victim of this offense will not know for several months whether or not she contracted the HIV virus. If she does become HIV-positive, it's a death sentence."

Those are the words of the Minnesota Court of Appeals on Dec. 26, 1995, in affirming a 30-year sentence for an HIV-infected defendant.

"The fact that (the defendant) had AIDS is a severe factor that, coupled with the gratuitous cruelty, warrant the greater-than-triple departure" from sentencing guidelines, the court added.

Across the nation, those entrusted with the safety and public health of Americans are realizing the devastating effect of sexual assault by persons infected with this life-threatening disease.

Twenty-seven states and selected possessions have some type of law that specifically criminalizes the exposure or transmission of HIV in their jurisdictions

Everything possible and practical should be done to deter such criminals, or at least make sure these offenders are put behind bars for a long time.

This bill is needed to protect all of us, but especially those most at risk, women who are the victims of rape. Your favorable consideration of HB 258 is respectfully requested.

# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB258-Courts-2-16-06  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title Sexual Assault by Persons With HIV/Aids RDU Alaska Court System  
Component Trial Courts  
Sponsor Representative Lynn  
Requester \_\_\_\_\_ Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The court system does not anticipate any fiscal impact from the passage of HB 258.

Prepared by: Doug Wooliver, Administrative Attorney Phone 463-4750  
Division: Alaska Court System Date/Time 2/16/06 3:30 PM  
Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 2/16/2006  
Agency: Alaska Court System

# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB258-LAW-CJL-2-21-06  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
Title "An Act relating to aggravating factors at RDU CRIMINAL  
sentencing." Component Criminal Justice Litigation  
Sponsor Representative Lynn  
Requester House Health, Education and Social Services Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill amends AS 12.55 by adding a diagnosis of testing positive for or having HIV or AIDS as an aggravating factor in sentencing for sexual assault offenses, sexual abuse or unlawful exploitation of a minor.

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

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
Division Administrative Services Division Date/Time 2/21/06 11:59 AM  
Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 2/21/2006  
Agency Department of Law

# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 258  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 2/28/06 3:38 p.m. Dept. Affected: Administration  
Title "An Act relating to aggravating factors at sentencing." RDU Legal and Advocacy Services  
Component Public Defender Agency  
Sponsor Rep. Lynn  
Requester (H) HES Component No. 1631

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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>						
-----------------------------	--	--	--	--	--	--

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

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill create a new aggravating factor under AS 12.55.155 when a defendant is convicted of an offense under AS 11.41.410 - 11.41.455 and the defendant had been previously diagnosed as having or having tested positive for HIV or AIDS.

This bill is not expected to have a significant fiscal impact on the Public Defender Agency operations.

Prepared by: Quinlan Steiner, Director Phone (907) 334-4414  
Division Public Defender Agency Date/Time 2/28/06/ 3:38 p.m.  
Approved by: Mike Tibbles, Deputy Commissioner Date 2/28/2006  
Agency Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB258  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
 Title "Sexual Assault by Persons with HIV/AIDS" RDU Institutional Facilities  
 Component Institution Director's Office  
 Sponsor Representative Lynn  
 Requester Judiciary, Health Education & Social Services Component No. 524

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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>CHANGE IN REVENUES ( )</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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 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)

Department of Corrections medical staff reports that currently there are five inmates (out of 5001) who have been diagnosed with HIV/AIDS, and none of these inmates are incarcerated for a sexual crime. Medical staff also reports that there are about four to five additional inmates who often are booked and released from Alaska correctional facilities on minor charges or for a non-criminal hold (Title 47) who have been diagnosed with HIV/AIDS, but again none are sex offenders. Based on the information available, it is difficult for the department to predict with any accuracy if a case may arise that may be impacted by the changes contained in the legislation. But, it is estimated that the impact will be minimal due to the very small number of total HIV/AIDS cases. Therefore, the Department of Corrections does not anticipate a significant fiscal impact due to the passage of this legislation.

Prepared by: Sharleen Griffin, Director  
 Division: Administrative Services  
 Approved by: Portia Parker, Deputy Commissioner  
 Agency: Department of Corrections

Phone (907) 465-3339  
 Date/Time 3/23/06 10:07 AM  
 Date 3/23/2006

# Alaska State Legislature

## Chairman

Military & Veterans' Affairs Committee

## Member

Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade & Tourism  
Committee

Education Committee

Joint Armed Services Committee

## Finance Subcommittees

Labor & Workforce Development

Community & Economic Development

Military & Veterans' Affairs



*A Communication From*

**REPRESENTATIVE BOB LYNN**

**District 31 Anchorage**

**E-Mail: Representative\_Bob\_Lynn@legis.state.ak.us**  
**"Bob Lynn's Alaska Blog" AlaskaDistrict31.blogspot.com**

## Session:

Alaska State Capitol  
Juneau, AK 99801-1182

Phone (907) 465-4931

Fax (907) 465-4316

Toll Free (800) 870-4391

## Interim:

716 W 4<sup>th</sup> Ave., #650  
Anchorage, AK 99501-2133

Phone (907) 269-0205

Fax (907) 269-0207

## Sectional Analysis for HB 258: Sexual assault by person with HIV/AIDS

Released: February 16, 2006

Michael Sica, staff for Rep. Bob Lynn

- Section 1.** Adds a new paragraph making it an aggravating factor for felonies specified in AS 11.41.410-11.41.455 committed by a defendant previously diagnosed as having or having tested positive for HIV or AIDS.
- Section 2.** Adds a new section to the uncodified law of the State of Alaska establishing that this Act applies on or after the effective date of this Act.

# Alaska State Legislature

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Military & Veterans' Affairs Committee

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Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade & Tourism  
Committee

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## Finance Subcommittees

Labor & Workforce Development

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*A Communication From*

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**E-Mail: Representative Bob Lynn@legis.state.ak.us**  
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Anchorage, AK 99501-2133

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Fax: (907) 269-0207

## POSITION PAPER HB 258

**"An Act relating to aggravating factors at sentencing."**

**By Representative Bob Lynn**

**Date Released: Feb. 27, 2006**

House Bill 258 will provide for an aggravating factor at sentencing for persons convicted of sexual assault who have been previously diagnosed as having or having tested positive for HIV or AIDS.

Before talking about HB 258, allow me to quote the words of the Minnesota Court of Appeals, which affirmed a 30-year sentence for an HIV-infected defendant on Dec. 26, 1995.

"I cannot fathom on the face of the earth a more devastating offense to a victim than being sexually assaulted by a person with AIDS," the Court said. "The victim of this offense will not know for several months whether or not she contracted the HIV virus. If she does become HIV-positive, it's a death sentence."

"The fact that (the defendant) had AIDS is a severe factor that, coupled with the gratuitous cruelty, warrant the greater-than-triple departure" from sentencing guidelines, the court added.

Across the nation, those entrusted with the public health and safety of Americans are realizing the devastating effect of sexual assault by persons infected with this life-threatening disease.

Twenty-seven states and selected possessions have some type of law that specifically criminalizes the exposure or transmission of HIV in their jurisdictions.

Under HB258, Alaska would become another state that criminalizes HIV exposure by making it an aggravating factor at sentencing for felony sexual offenders who had been previously diagnosed as having or having tested positive for HIV or AIDS.

Sexual assault is painful enough. The mere possibility of HIV-transmission – accompanied by the sheer terror of up to six months or more of testing that may reveal a life-threatening infection – raises the crime to a more heinous level.

Everything possible and practical should be done to either deter such criminals or at least make sure these offenders are put behind bars for a long time.

More than 15 years ago, the Centers for Disease Control recognized the profound effects that exposure to HIV has on victims of rapes and serious sexual offenses.

“Fear and concern about possible HIV infection usually intensify feelings of shock, fear, disbelief, anxiety, depression, and helplessness that may occur in victims of sexual assaults,” the CDC reports.

This bill is needed to protect all of us, but especially those most at risk, women who are the victims of rape. Your favorable consideration of HB 258 is respectfully requested.

Thank you.

# Alaska State Legislature



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Military & Veterans' Affairs Committee

## Member

Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade & Tourism  
Committee

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*A Communication From*  
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**District 31 Anchorage**

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## HB258 QUESTIONS & ANSWERS

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*Below are questions that have been asked about House Bill 258, and our answers based on research and interviews with medical, legal and law enforcement officials as well as Alaska agencies for victims of violence and sexual assault.*

### **QUESTIONS: How do you know a sexual assailant has HIV or AIDS?**

**ANSWER:** When there is a rape or sexual assault and police charge a defendant with a sexual offense, the law enforcement agency would then seek a search warrant for the sexual offender's medical records. The court could also issue an order or subpoena for release of medical records.

Under current state law (Sec. 18.15.300-310), sexual assault victims have the right to request that a defendant be tested for HIV or other sexually transmitted diseases, and results be made available to them. So, access to these records is nothing new; it's already happening in many cases.

### **QUESTION: How does this release of confidential health information relate to the federal requirements under the Health Insurance Portability and Accountability Act of 1996 (HIPAA)?**

**ANSWER:** HIPAA allows for the disclosure of protected health information, without an individual's authorization, for several purposes, including "Public Health and Benefit Activities." This includes the release of confidential medical records for law enforcement purposes as well as judicial and administrative proceedings.

We also believe that sexual predators who are willing to share their semen, blood and bodily fluids by force should also be willing to share their relevant medical records by force as well.

**QUESTION: Why identify only HIV or AIDS and not other sexually transmitted diseases in your bill?**

ANSWER: Most cases of HIV today are the result of transmission through sexual behavior. According to a summary fact sheet by the Office of National AIDS Policy posted on the White House website, nearly 60 percent of men and 75 percent of women who have the virus or disease were infected through sex with other partners. Other information sources show even higher transmission rates through sexual activity.

Despite advances in medical treatment, there is no cure for the disease and some strains of the virus cannot be as effectively treated with drugs. HIV/AIDS is a life-threatening STD that is transmitted primarily through sexual behavior and often carries with it catastrophic medical, financial and personal consequences.

The Centers for Disease Control as well as many agencies for victims of rape and sexual offenses identify "HIV transmission" as a major concern among survivors of sexual assault.

**QUESTION: Hepatitis C and genital herpes are also sexually-transmitted, lifelong afflictions. Why not include them in your bill as well?**

ANSWER: Hepatitis C can be life-threatening but its main route of transmission is through blood from infected persons, commonly with shared needles when "shooting" drugs, according to the CDC. Sexual behavior is not the major route of transmission for the disease. The CDC does not even recommend testing for Hepatitis C for people having sex with multiple partners or people having sex with an infected steady partner.

Genital herpes is primarily transmitted through sexual behavior and has no cure, but it is not considered a life-threatening disease. According to the California STD/HIV prevention training center, "Genital herpes is not usually considered a severe or dangerous infection, but it can be painful."

**QUESTION: Must the court enhance the sentence for a convicted sexual offender who has been previously diagnosed with HIV or AIDS?**

ANSWER: At sentencing, the Judge is not required to increase the sentence of a defendant because an aggravator has been found. The Judge must consider all circumstances and then may increase the sentence, either active time to serve or suspended time, based upon the aggravator.

**QUESTION: What are some examples of aggravators currently included in state law?**

ANSWER: Under Sec. 12.55.155, some factors in aggravation that may be considered at the time of sentencing for a defendant relate to physical injury, deliberate cruelty and so-called hate crimes. These factors should be aggravators, but so should exposure to a life-threatening disease such as HIV by a convicted rapist or sexual offender.

**QUESTION: Some of the sexual offenses listed under this bill may not include penetration, the most common route of transmission of the HIV virus. Is it fair to enhance the sentence of a sexual offender who is convicted of a crime that does not specifically mention penetration?**

ANSWER: Many cases of rape and other sexual penetration offenses end up, through plea agreements, in convictions for crimes that don't include penetration. Nevertheless, penetration and exposure to sexually transmitted diseases has taken place and should be considered as an aggravator at sentencing.

Again, the court can take the circumstances into account when deciding whether to enhance the sentence of a convicted sexual offender.

**QUESTION: Aren't you discriminating against people with HIV or AIDS by singling out that virus and that disease in your bill?**

ANSWER: We are not discriminating against the victims of this terrible disease. We have nothing but concern for those with HIV and AIDS. In fact, the life-changing and life-threatening impacts of the disease helped create this bill. We want to punish and hopefully deter sexual offenders who would expose innocent victims to the HIV virus. If we are discriminating anybody, it's against rapists and sexual predators.

**QUESTION: What about the stigma that some claim may be reinforced by only listing HIV or AIDS, and not other STDs, in your bill?**

ANSWER: There is a stigma attached to many things in life. A man crossing paths with a woman on a lonely street deals with the stigma of being a considered potential rapist. There is a stigma attached to cigarette smoking, yet states pass laws protecting others from smokers in public places.

If there is a stigma attached to having HIV or AIDS, what about the additional pain and suffering this causes the innocent victims of rape or sexual assault by a convicted defendant with the disease? The stigma that some unthinking individuals may attach to the disease is as much an argument for, not against, including it as an aggravator at sentencing for HIV-infected rapists and sexual predators.

Also, HIV and AIDS is already defined in state law in Sec. 18.15.310, not as a stigma or a mark of shame, but as a specific virus and disease as it relates to testing of defendants of sexual crimes. This bill does nothing to change that.

**QUESTION: With all the medical advancements in HIV and AIDS treatment, can you really consider AIDS a death sentence today?**

ANSWER: Many HIV/AIDS patients are living longer today but the increase in life expectancy depends on many factors, such as early treatment and positive response to medical therapies.

Dr. Renslow Sherer, with the University of Chicago Hospitals, tells his HIV patients that they can have a normal life expectancy but, even under the best circumstances, "this will not be easy."

"Adherence to daily medications is extremely demanding, even if there are no untoward side effects," Dr. Sherer said in Jan. 14, 2006 article on a website called, The Body, the Complete HIV/AIDS Resource. "Life with HIV is still a hard life, even if the medication part becomes simple and routine."

In a 2002 study published in the Archives of Internal Medicine, the projected life expectancy for a 37-year-old HIV patient receiving antiretroviral therapy was nearly three years longer than a patient receiving delayed therapy (16.54 years vs. 13.73 years). It is a sobering thought that some prisoners on Death Row live longer than some people infected with HIV/AIDS.

Try telling a woman who has been infected with the HIV virus by a rapist that it's not a death sentence. Try telling her that, knowing she may not see her children or grandchildren grow up. At the very least, it is a life sentence – a life sentence that will have a negative impact on a daily basis because she was violated by an HIV-infected rapist or sexual predator.

## **HB258 Q&A Background Information**

**Reports, studies, fact sheets, statutes and other  
supporting information referred to in the  
Sponsor's Q&A Paper are available upon request**

**HB258 Legislative Research Services  
Report and Other Background Material**

## Lambada Legal HIV Project 9/9/2002

## State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
Alabama	Ala Code § 22-11A-21	Class C Misdemeanor	Any person afflicted with an STD who knowingly transmits, assumes the risk of transmitting, or does any act which will probably or likely transmit such disease to another person is guilty of a class C misdemeanor
Alaska	N/A		
Arizona	N/A		
Arkansas	Ark Code Ann § 5-14-123	Class A Felony	It is a class A felony for a person who knows that he or she has tested positive for HIV to expose another to HIV (1) through the transfer of blood or blood products or (2) by engaging in sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, <i>however slight</i> , of any part of a person's body or of any object into the genital or anal openings of another person's body, without first having informed the other person of the presence of HIV. The emission of semen is not a required element of the crime
	Ark Code Ann § 20-15-903	Class A Misdemeanor	A person who is HIV positive must, prior to receiving any health care services of a physician or dentist, advise such physician or dentist that the person has HIV. Failure to do so is a class A misdemeanor
California	Health and Safety Code § 120291	Felony	Any person who exposes another to HIV by engaging in unprotected sexual activity (anal or vaginal intercourse without a condom) when the infected person knows at the time of the unprotected sex that he or she is infected with HIV, has not disclosed his or her HIV-positive status, and acts with the specific intent to infect the other person with HIV, is guilty of a felony. A person's knowledge of his or her HIV-positive status without additional evidence, is not sufficient to prove specific intent
	Health and Safety Code § 16215	Felony	It is a felony for any person who knows that he or she has HIV or AIDS to donate blood, body organs or other tissue, semen, or breast milk to any medical center, breast milk bank or semen bank. Exempted: autologous donations
	Penal Code § 12022.85	Sentence enhancement	Any person who commits a sexual offense with the knowledge that he or she is infected with HIV at the time of commission shall receive a three-year enhancement for each violation in addition to the sentence provided for the sexual offense itself. Sexual offenses included under this provision are rape, unlawful intercourse with a person under 18 years of age, and rape of a spouse. Sodomy and oral copulation are also included, but under California law these are punishable as sexual offenses only in narrow circumstances, such as when they are accompanied by intoxication, violence, the threat of violence, or when they involve a minor

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**State Criminal Statutes on HIV Transmission**

State	Statute	Type of Crime	Summary
Colorado	Colo Rev Stat § 18-3-415 5	Sentence Enhancement	If it is proven beyond a reasonable doubt that a person had notice of his or her HIV infection prior to the date that he or she committed a sexual offense, the judge shall sentence said person to a mandatory term of incarceration of at least three times the upper limit of the presumptive range for the level of offense committed, up to the remainder of the person's life. See also Colo Rev Stat § 16-13-804.
	Colo Rev Stat § 18-7-205 7	Class 6 Felony	Any person with knowledge of being infected with HIV who patronizes a prostitute is guilty of a class 6 felony. Patronizing a prostitute means engaging in an act of sexual intercourse or of deviate sexual conduct with a prostitute. This law does not apply to spouses. See Colo Rev Stat § 18-7-205.
	Colo Rev Stat § 18-7-201 7	Class 5 Felony	Any person who, in exchange for money or any other thing of value, performs or offers or agrees to perform any act of sexual intercourse, oral sex, masturbation or anal intercourse and does so having tested positive for HIV is guilty of a class 5 felony.
Connecticut	N/A		
Delaware	Del Code Ann tit 16 § 2801	Class E Felony	For the purposes of (1) artificial insemination or (2) cornea, bone, organ or tissue transplantation, transfusion or injection, no person may knowingly, recklessly or intentionally use the semen, corneas, bones, organs or other human tissue of a donor who has tested positive for exposure to HIV or any other identified causative agent of AIDS.
District of Columbia	N/A		
Florida	Fla Stat Ann § 384 24	N/A	It is unlawful for any person who has HIV (or other STDs listed in the statute) knowing of such infection and having been informed that he or she may communicate the disease to others through sexual intercourse, to have sexual intercourse with any other person, unless such other person has been informed of the presence of HIV (or the STD) and has consented to the sexual intercourse.
	Fla Stat Ann § 381 0041	Third Degree Felony	Any person who has HIV, who knows he or she is infected and who has been informed that he or she may communicate the disease by donating blood, organs or human tissues who donates blood, organs or human tissue is guilty of a felony of the third degree.
	Fla Stat Ann § 381 0041	First Degree Misdemeanor	Any person (i.e. health care worker) who fails to test the blood, plasma, organs, skin or other human tissue which is to be transfused or transplanted is guilty of a misdemeanor in the first degree.

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State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
Florida (contd.)	Fla Stat Ann § 796 08	Third Degree Felony	A person who commits prostitution, offers to commit prostitution or, by engaging in sexual activity likely to transmit HIV, procures another for prostitution, and who tested positive for HIV before the crime and knew or had been informed of the test result and of the possibility of transmission to others through sexual activity commits criminal transmission of HIV
	Fla Stat Ann § 775 0877	Third Degree Felony	A person who pleads guilty or nolo contendere to or is convicted of one of the crimes listed in subsection (1) of this statute, who subsequently tests positive for HIV and is informed of that test result, and who then commits one of the crimes listed in subsection (1) <i>again</i> is guilty of criminal transmission of HIV, a felony of the third degree This is punishable by any penalty provided by law for the subsection (1) offense committed, the court may also require an offender to serve a term of criminal quarantine community control The offenses listed in subsection (1) include assault, battery, incest, child abuse, abuse of the elderly, sexual performance by minors, prostitution, and donation of contaminated blood
Georgia	Ga Code Ann § 16-5-60	Felony	Any person who knows that he or she is HIV infected is guilty of a felony if he or she, without disclosing his or her HIV status, (1) has sexual intercourse, including oral sex, with another person (2) knowingly shares a hypodermic needle or syringe with another person, (3) offers or consents to perform an act of sexual intercourse for money, (4) solicits another to perform or submit to an act of sodomy for money, or (5) donates blood or body tissue
	Ga Code Ann § 44-5-151	Misdemeanor	Health care providers and others who work with donated human blood, body parts and tissues that may carry HIV are required to test the donor or the donated bodily materials for HIV, and, if the test is positive, to dispose of the materials or make them available for medical research, but not make them available for use in the body of another human being Violation of this requirement is a misdemeanor
Hawaii	N/A		
Idaho	Idaho Code § 39-608	Felony	Any person who exposes another in any manner with the intent to infect or, knowing that he or she has HIV or AIDS, transfers or attempts to transfer any of his or her body fluid, tissue or organs to another person is guilty of a felony and shall be punished by imprisonment in the state prison for a period not to exceed 15 years, by a fine not in excess of \$5000, or both It is an affirmative defense that the sexual activity took place between consenting adults after full disclosure by the accused of the risk of HIV transmission It is also an affirmative defense that the transfer of body fluid, tissue or organs occurred after advice from a licensed physician that the accused was noninfectious

## State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
Illinois	720 Ill Comp Stat § 5/12-16.2	Class 2 Felony	A person commits criminal transmission of HIV when he or she, knowing that he or she is infected with HIV (1) engages in contact with another person involving the exposure of the body of one person to a bodily fluid of another in a manner that could result in HIV transmission (2) transfers, donates or provides his or her blood, tissue, semen, organs or other potentially infectious body fluids for administration to another person, or (3) in any way transfers to another any nonsterile IV or intramuscular drug paraphernalia. The actual transmission of HIV is not a required element of this crime. It is an affirmative defense that the person exposed knew that the infected person was infected with HIV, knew that the action could result in infection, and consented with that knowledge.
	20 Ill Comp Stat § 2310 / § 2310-325	Class A Misdemeanor	In performing the technique of human artificial insemination, no person shall intentionally, knowingly, recklessly, or negligently use the semen of a donor who has not been tested for HIV or who has tested positive for HIV or any other identified causative agent of AIDS.
	20 Ill Comp Stat § 2310 / 2310-330	Class 4 Felony	No person may intentionally, knowingly, recklessly, or negligently use the semen, corneas, bones, organs or other human tissue of a donor unless these bodily materials have been tested for HIV. No person may intentionally, knowingly, recklessly, or negligently use any of these bodily materials if the donor has tested positive for HIV or other identified causative agents of AIDS. Violation of these prohibitions is a class 4 felony. There is an exception to the testing requirement when an attending physician deems that the life of a recipient of the human material would be jeopardized by delays caused by the HIV testing. ?Human tissue? does not include whole blood or its component parts.
Indiana	Ind Code § 35-42-1-7	Class C Felony, Class A Felony	A person who recklessly, knowingly, or intentionally donates, sells or transfers blood, a blood component, or semen for artificial insemination that contains HIV commits ?transferring contaminated body fluids? a class C felony. However, the offense is a class A felony if it results in the transmission of HIV to any person other than the defendant. These provisions do not apply to a person who, for reasons of privacy, donates blood to a blood center after the person has notified the blood center that the blood must be disposed of. Nor do the provisions apply to those that transfer HIV positive body fluids for research purposes.

## State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
Indiana (contd.)	Ind Code § 35-42-6	Class D Felony, Class C Felony, Class A Felony	A person who knowingly or intentionally in a rude, insolent, or angry manner places (or coerces another to place) blood or another body fluid or waste on a law enforcement or corrections officer identified as such and at that moment on duty commits battery by body waste, a class D Felony. The offense is a class C felony if the person knew or recklessly failed to know that the blood, fluid or body waste was infected with HIV. The offense is a class A felony if the person knew or recklessly failed to know that the blood, fluid or body waste was infected with HIV and the offense results in the transmission of HIV.
	Ind Code § 35-42-2-6	Class A Misdemeanor, Class D Felony, Class B Felony	A person who knowingly or intentionally in a rude, insolent, or an angry manner places human blood, semen, urine or fecal waste on another person commits battery by body waste, a class A misdemeanor. The offense is a class D felony if the person knew or recklessly failed to know that the blood, fluid or waste was infected with HIV. It is a class B felony if the person knew or recklessly failed to know that the blood, fluid or waste was infected with HIV and the offense results in the transmission of HIV.
	Ind Code § 35-45-16-2	Class B Misdemeanor, Class D Felony, Class B Felony	A person who recklessly, knowingly, or intentionally places human blood, semen, urine or fecal waste in a location with the intent that another person will involuntarily touch it commits malicious mischief, a class B misdemeanor. The offense is a class D felony if the person knew or recklessly failed to know that the blood, urine, or waste was infected with HIV. It is a class B felony if the person knew or recklessly failed to know that the waste was infected with HIV and the offense results in the transmission of HIV to the other person.
	Ind Code § 35-45-16-2	Class A Misdemeanor, Class D Felony, Class B Felony	A person who recklessly, knowingly, or intentionally places human blood, fluid, or fecal waste in a location with the intent that another person will ingest it commits malicious mischief with food, a class A misdemeanor. The offense is a class D felony if the person knew or recklessly failed to know that the blood, fluid or waste was infected with HIV. The offense is a class B felony if the person knew or recklessly failed to know that the blood, fluid or waste was infected with HIV and the offense results in the transmission of HIV to the other person.
	Ind Code Ann § 16-41-12-13	Class A Misdemeanor	A blood center shall perform a screening test on a donor's blood and obtain the results before the blood is distributed for use. An employee who is responsible for conducting the screening test who knowingly or intentionally fails to do so commits a class A misdemeanor.

## State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
Iowa	Iowa Code § 709C 1	Class B Felony	A person commits criminal transmission of HIV if the person, knowing of his or her HIV positive status, engages in intimate contact with another person, provides blood or bodily fluids for administration to another person, or in any way transfers to another person any nonsterile intravenous or intramuscular drug paraphernalia previously used by the person infected with HIV. ?Intimate contact? means the intentional exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of HIV. Actual transmission of HIV is not a necessary element of this crime. It is an affirmative defense that the person exposed to HIV knew of the other person's HIV positive status, knew that the action of exposure could result in transmission of HIV, and consented to the action of exposure with that knowledge.
Kansas	Kans Stat Ann § 65-6065	Class C Misdemeanor	Any person violating, refusing or neglecting to obey any provision of the rules and regulations adopted by the Secretary of Health for the prevention and control of AIDS shall be guilty of a class C misdemeanor.
Kentucky	Ky Rev Stat Ann § 311 990	Class D Felony	Any person infected with HIV, knowing that he is infected and having been informed that he may communicate the infection by donating human organs, skin or tissues, who donates organs, skin or other human tissue is guilty of a class D felony.
	Ky Rev Stat Ann § 311 990	Class A Misdemeanor	Any person who fails to test organs, skin or other human tissue which is to be transplanted is guilty of a class A misdemeanor.
	Ky Rev Stat Ann § 529 090	Class D Felony	Any person who commits, offers, agrees to commit or procures another to commit prostitution by engaging in sexual activity in a manner likely to transmit HIV and who, prior to the commission of the crime, had tested positive for HIV and knew or had been informed that he had tested positive and that he could possibly communicate the disease to another through sexual activity is guilty of a class D felony.
Louisiana	La Rev Stat Ann § 14 43 5	Not specified	No person shall intentionally expose another to any AIDS virus through sexual contact or through any other means or contact without the knowing and lawful consent of the victim. Those who commit this crime shall be fined not more than \$5000, imprisoned with or without hard labor for not more than 10 years, or both. If the victim is a police officer, the fine will be not more than \$6000 and the imprisonment not more than 11 years.
	La Rev Stat Ann § 40 1062 1	Not specified	A health facility, agency, or physician which violates the provisions on testing donated semen for HIV shall be fined not more than \$2000 and shall be liable for damages in a civil action.

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## State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
Maine	N/A		
Maryland	Md Code Ann, Health General § 18-601.1	Misdemeanor	A person with HIV who knowingly transfers or attempts to transfer the virus to another individual is guilty of a misdemeanor, punishable by a fine not exceeding \$2,500 or imprisonment not exceeding 3 years, or both.
Massachusetts	N/A		
Michigan	Mich Comp Laws Ann § 14 15 (5210)	Felony	A person who knows that he or she has or has been diagnosed as having AIDS or who knows that he or she is HIV positive, and who engages in sexual penetration with another person without informing that person of his HIV positive status or AIDS condition, is guilty of a felony. "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body. It is irrelevant for purposes of this offense whether semen has been emitted.
Minnesota	N/A		
Mississippi	Miss Code Ann § 41-23-29	Misdemeanor	The state board of health has the power to isolate, quarantine or otherwise confine a person afflicted with an infectious STD. The board may create rules and regulations relevant to this power. Violation of those rules and regulations will be deemed a misdemeanor and is punishable by fine or imprisonment or both.
	Miss Code Ann § 41-23-29	Misdemeanor	Any person suspected of being afflicted with an infectious STD may be subject to physical examination and inspection by any representative of the state board of health. Failure or refusal to allow such inspection or examination is a misdemeanor.
Missouri	Mo Rev Stat § 191.677 (2002)	Class B Felony, Class A Felony	It is unlawful for a person knowingly infected with HIV to be (or attempt to be) a donor of blood, blood products, organs, sperm or tissue, except as deemed necessary for medical research. It is also unlawful for a person knowingly infected with HIV to act in a reckless manner by exposing another person to HIV without the knowledge and consent of that person in any of the following three manners: (1) through contact with blood, semen or vaginal secretions during oral, anal or vaginal sex; (2) by sharing needles; or (3) by biting another person or purposely doing anything else which causes the HIV infected person's semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person. The use of a condom is not a defense. A violation of these provisions is a class B felony, unless the victim contracts HIV from the contact, in which case it is a class A felony.

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**State Criminal Statutes on HIV Transmission**

State	Statute	Type of Crime	Summary
Missouri (contd.)	Mo Rev Stat § 567 020	Class B Felony	Performing an act of prostitution, which is normally a class B misdemeanor, becomes a class B felony if the prostitute knew prior to performing the act of prostitution that he or she was infected with HIV. The use of a condom is not a defense.
Montana	Mont Code Ann § 50-16-1008	Misdemeanor	A prospective donor of blood, tissue, or an organ must be tested for HIV before the donation takes place, unless the transplantation is necessary to save a patient's life and there is not enough time to perform the HIV test. A knowing or purposeful violation of this provision is a misdemeanor punishable by a fine of up to \$1,000 or imprisonment of up to 6 months, or both.
	Mont Code Ann § 50-18-112 and 50-18-113	Misdemeanor	A person infected with an STD may not knowingly expose another person to infection. Violation of this provision is a misdemeanor.
Nebraska	N/A		
Nevada	Nev Rev Stat Ann § 201 205	Class B Felony	A person who has received notice that he or she is HIV positive and who intentionally, knowingly or willfully engages in conduct in a manner that is intended to or is likely to transmit the disease to another person is guilty of a category B felony. This is punishable by imprisonment for at least 2 years but not more than 10, or by a fine of not more than \$10,000, or by both fine and imprisonment. It is a defense to this offense that the person subject to exposure to HIV knew that the defendant was HIV positive, knew the conduct could result in exposure to HIV, and consented to engage in that conduct.
	Nev Rev Stat Ann § 441A 300	Not specified	A person diagnosed with AIDS who fails to comply with a written order of a health authority, or who engages in behavior through which the disease may be spread to others, is subject to confinement by order of a court.
	Nev Rev Stat Ann § 201 358	Class B Felony	A person who works as a prostitute after testing positive for HIV and after receiving notice of that fact is guilty of a category B felony. Punishment is at least 2 years imprisonment but not more than 10, or a fine of not more than \$10,000, or both fine and imprisonment.
New Hampshire	N/A		
New Jersey	N J Stat Ann § 2C: 3475	Crime of the Fourth Degree, Third Degree	A person is guilty of a crime of the fourth degree if, knowing that he or she is infected with an STD, he or she commits an act of sexual penetration without the informed consent of the other person. The crime is of the third degree if the disease is HIV.

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State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
New Mexico	N/A		
New York	N/A		
North Carolina	N/A		
North Dakota	N D Cent Code § 12 1-20-17	Class A Felony	A person who, knowing that he or she has HIV or AIDS or AIDS related symptoms, willfully transfers any of his or her body fluid to another person is guilty of a class A felony. It is an affirmative defense that, if the transfer was by sexual activity, the activity took place between consenting adults after full disclosure of the risk of the activity and with the use of an appropriate prophylactic device.
Ohio	Ohio Rev Code Ann § 2903 11	Second Degree Felony, First Degree Felony	No person, with knowledge that the person has tested positive for HIV, shall do any of the following: (1) Engage in sexual conduct with another person without disclosing his or her HIV positive status to the other person prior to engaging in the sexual conduct, (2) Engage in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender is HIV positive, or (3) Engage in sexual conduct with a person under 18 who is not the spouse of the offender. Violation of this provision is felonious assault, a felony of the second degree. If the victim is a peace officer and suffers serious physical harm as a result of the offense, it is a felony in the first degree.
	Ohio Rev Code Ann § 2907 25	Third Degree Felony	No person, with knowledge that the person has tested positive for HIV, shall engage in sexual activity for hire. Violation of this provision is a third degree felony.
	Ohio Rev Code Ann § 2907 24	Third Degree Felony	No person, with knowledge that the person has tested positive for HIV, shall solicit another person to engage in sexual activity for hire.
	Ohio Rev Code Ann § 2907 24 1	Fifth Degree Felony	A person who commits "loitering to engage in prostitution" commits a fifth degree felony if the person commits the offense with the knowledge that he or she has tested positive for HIV.
	Ohio Rev Code Ann § 2921 38	Third Degree Felony	No person who is confined in a detention facility, with knowledge that the person is HIV positive and with the intent to harass, annoy, threaten, or alarm another person, shall cause or attempt to cause the other person to come into contact with blood, semen, urine, feces, or another bodily substance. Violation of this provision is a third degree felony.

## State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
Ohio (contd.)	Ohio Rev Code Ann § 2927.13	Fourth Degree Felony	No person, with knowledge that he or she is HIV positive, shall sell or donate his/her blood, plasma, or a product of his/her blood, if he or she knows or should know the blood, plasma, or product of his/her blood is being accepted for the purpose of transfusion to another individual
Oklahoma	Okla Stat tit 21, § 1031	Felony	Any person who engages in prostitution with knowledge that they are infected with HIV shall be guilty of a felony punishable by imprisonment for not more than five years
	Okla Stat tit 21, § 1192.1	Felony	It shall be unlawful for any person, knowing that he or she has AIDS or HIV and with intent to infect another, to engage in conduct reasonably likely to result in the transfer of the person's own blood, semen or vaginal secretions into the bloodstream of another, or through the skin or other membranes of another person. It is a defense that the transmission was in utero, or that the other person consented to the transmission of the blood or fluid with knowledge of the HIV positive status.
	Okla Stat tit 63, § 1-519	Felony	It is a felony for any person, after becoming infected with a venereal disease and before being pronounced cured by a physician in writing, to marry any other person or to expose any other person by the act of copulation or sexual intercourse to such venereal disease
Oregon	N/A		
Pennsylvania	Pa Stat Ann tit 18, § 2703	Second Degree Felony	A person who is confined in any jail, prison or correctional institution is guilty of a felony of the second degree if he, while so confined, intentionally or knowingly causes another to come into contact with blood, seminal fluid, saliva, urine or feces by throwing, tossing, spitting or expelling such fluid or material when, at the time of the offense, the person knew, had reason to know or should have known that such fluid or material was infected with a communicable disease, including HIV
	Pa Stat Ann tit 18, § 2704	Felony	If a person sentenced to death or life imprisonment intentionally or knowingly causes another to come into contact with blood, seminal fluid, saliva, urine or feces by throwing, tossing, spitting or expelling such fluid or material when, at the time of the offense, the person knew, had reason to know or should have known that the fluid or material was infected with a communicable disease including HIV, then the person is guilty of a crime, the penalty for which shall be the same as the penalty for murder of the second degree
	Pa Stat Ann tit 18, § 5902	Third Degree Felony	It is a felony in the third degree for a person to engage in prostitution knowing he or she is HIV positive, to promote prostitution of one who is HIV positive, or for a person, knowing him or herself to be HIV positive, to patronize a prostitute

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State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
Rhode Island	R.I. Gen Laws § 23-11-1	Not specified	It shall be unlawful for anyone knowingly, while in the infectious condition with an STD, to expose another person to infection. Violation of this provision is punishable by a fine of not more than \$100 or imprisonment for not more than 3 months.
South Carolina	S.C. Code Ann § 44-29-145	Felony	It is unlawful for a person who knows that he is infected with HIV to (1) knowingly engage in sexual intercourse (vaginal, anal, or oral) with another person without first informing that person of his HIV infection, (2) knowingly commit an act of prostitution with another person, (3) knowingly sell or donate blood, blood products, semen, tissue, organs, or other body fluid; (4) forcibly engage in sexual intercourse (vaginal, anal or oral) without the consent of the other person including one's legal spouse or (5) knowingly share with another person a hypodermic needle, syringe or both, for the introduction or withdrawal of any substance into or from another person's body without first informing that person that the needle or syringe has been used by someone infected with HIV. Violation of these provisions is a felony punishable by a fine of not more than \$5000 or imprisonment for not more than 10 years.
	S.C. Code Ann § 24-13-470	Felony	It is unlawful for an inmate, a detainee, a person in custody or a person under arrest to attempt to throw or to throw body fluids (including urine, blood, feces, vomit, saliva or semen) on an employee of a state or local correctional facility, on a state or local law enforcement officer, on a visitor of a correctional facility, or on any other person authorized to be present in a correctional facility in an official capacity. Upon conviction for violating this provision, the offender must be imprisoned not more than 15 years. A sentence under this provision must be served consecutively to any other sentence the inmate is serving. These provisions do not prohibit the prosecution of an inmate for a more serious offense if the inmate is determined to be HIV positive or has another disease that may be transmitted through body fluids.
	S.C. Code Ann § 44-29-60, S.C. Code Ann § 44-29-140	Misdemeanor	It is unlawful for anyone infected with an STD, including all venereal diseases, to knowingly expose another to infection. Violation of this provision is a misdemeanor punishable by a fine of not more than \$200 or imprisonment for not more than 30 days.

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State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
South Dakota	S D Codified Laws § 22-18-31, § 22-18-33, § 22-18-34	Class 3 Felony	It is unlawful for any person, knowing himself or herself to be infected with HIV, to intentionally expose another person to infection by (1) engaging in sexual intercourse or other intimate physical contact with another person, (2) transferring, donating or providing blood, tissue, semen, organs or other potentially infectious body fluids or parts for administration to another person in any manner that presents a significant risk of HIV infection, (3) transferring in any way to another person any nonsterile intravenous or intramuscular drug paraphernalia that has been contaminated by himself or herself or by (4) causing blood or semen to come in contact with another person for the purpose of exposing that person to HIV infection. Violation of these provision is a class 3 felony. The actual transmission of HIV is not a required element of this offense. It is an affirmative defense to prosecution, if proven by a preponderance of the evidence, that the person exposed to HIV knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and gave advance consent to the action with that knowledge.
	S D Codified Laws § 34-23-1	Class 2 Misdemeanor	It is a class 2 misdemeanor for anyone infected with syphilis, gonorrhea, or chancroid to expose another person to infection. This statute does not cover HIV.
Tennessee	Tenn Code Ann § 39-13-109	Class C Felony	It is unlawful for a person, knowing that such person is infected with HIV, to knowingly (1) engage in intimate contact with another, (2) transfer, donate or provide any potentially infectious body fluid or part for administration to another person in an way that presents a significant risk of HIV transmission, or (3) transfer in any way to another any nonsterile intravenous or intramuscular drug paraphernalia. For purposes of this statute, "intimate contact with another" means the exposure of the body of one person to a bodily fluid of another person in any manner that presents a significant risk of HIV transmission. Violation of these provisions is a class C felony. It is an affirmative defense to prosecution under this section that, if proven by a preponderance of the evidence, the person exposed to HIV knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and gave advance consent to the action with that knowledge. The actual transmission of HIV is not a required element of this offense.
	Tenn Code Ann § 39-13-516	Class C Felony	A person commits aggravated prostitution when, knowing that such person is infected with HIV, the person engages in sexual activity as a business or is an inmate in a house of prostitution or loiters in a public place for the purpose of being hired to engage in sexual activity. Aggravated prostitution is a class C felony.

## State Criminal Statutes on HIV Transmission

State	Statute	Type of Crime	Summary
Tennessee (contd.)	Tenn Code Ann § 68-10-107, § 68-10-11	Class C Misdemeanor	It is a class C misdemeanor for any person infected with an STD to expose another person to such infection
Texas	N/A		
Utah	Utah Code Ann § 76-10-1309	Third Degree Felony (enhanced penalty)	A person who is convicted of prostitution, patronizing a prostitute, or sexual solicitation is guilty of a third degree felony if he or she (1) is HIV positive, (2) has actual knowledge of his or her HIV positive status, and (3) has received written personal notice of the positive test result from a law enforcement agency
Vermont	Vt Stat Ann tit 18 § 1106	Not specified	A person who has sexual intercourse while knowingly infected with gonorrhea or syphilis in a communicable stage shall be imprisoned not more than two years or fined not more than \$500 00, or both This statute does not include HIV or AIDS.
Virginia	Va Code Ann § 18 2-67 4 1	Class 6 Felony	Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, analingus or anal intercourse with the intent to transmit the infection to another person shall be guilty of a class 6 felony
	Va Code Ann § 32 1-289 2	Class 6 Felony	Any person who, knowing that the donor is or was HIV positive, donates or sells, attempts to donate or sell, or consents to the donation or sale of blood or body parts is guilty of a class 6 felony This provision only applies to those who have been instructed that such blood or body parts may transmit HIV infection The provision does not apply to the donation of infected blood or body parts for use in research
Washington	Wash Rev Code Ann § 9A 36 011	Class A Felony	A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm administers, exposes, or transmits to or causes to be taken by another, poison, HIV, or any other destructive or noxious substance
	Wash Rev Code Ann § 70 24 140	Gross Misdemeanor	Covers STDs other than HIV It is unlawful for any person who has a sexually transmitted disease, except HIV infection, when such person knows he or she is infected with such a disease and when such person has been informed that he or she may communicate the disease to another person through sexual intercourse, to have sexual intercourse with any other person, unless such other person has been informed of the presence of the sexually transmitted disease
West Virginia	N/A		

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**State Criminal Statutes on HIV Transmission**

State	Statute	Type of Crime	Summary
Wisconsin	Wis Stat § 969.322	Sentence enhancement	Maximum term of imprisonment for serious sex crimes may be increased by up to 5 years if all of the following are true (a) the offender has HIV, an STD, or has tested positive for HIV, (b) the offender knows that he or she has HIV or an STD, and (c) the victim of the serious sex crime was significantly exposed to HIV or STD by the acts constituting the serious sex crime
Wyoming	N/A		

**Notes:** This is a reformatted version of the tables in LRS Report 05-158, "Criminal Statutes on Transmission of HIV and AIDS." The information in this table is identical to that of the tables in the original report.

**Source:** Lambda Legal <http://www.lambdalegal.org/cgi-bin/iowa/news/resources.html?record=361>

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## HIV-Specific Criminal Transmission Laws

Every state and territory has generic criminal statutes that could apply to conduct that exposed others to HIV. This section presents the results of research to document the existence of more HIV specific statutes. Twenty-seven states and selected possessions have some type of law that specifically criminalizes the exposure or transmission of HIV in their jurisdictions.

### HIV-Specific Exposure/Transmission Laws, US and Selected Possessions, 2000



### HIV-Specific Exposure or Transmission Laws

24 states have adopted statutes that criminalize exposure or transmission of HIV generally or specifically by at least some form of specific behavior such as spitting, donating blood, or sexual intercourse

- [Arkansas \(AR\)](#)
- [California \(CA\)](#)
- [Florida \(FL\)](#)
- [Georgia \(GA\)](#)
- [Idaho \(ID\)](#)
- [Illinois \(IL\)](#)
- [Indiana \(IN\)](#)
- [Iowa \(IA\)](#)
- [Kentucky \(KY\)](#)
- [Louisiana \(LA\)](#)
- [Maryland \(MD\)](#)
- [Michigan \(MI\)](#)
- [Missouri \(MO\)](#)
- [Nevada \(NV\)](#)
- [New Jersey \(NJ\)](#)
- [North Dakota \(ND\)](#)
- [Ohio \(OH\)](#)

- [Oklahoma \(OK\)](#)
- [Pennsylvania \(PA\)](#)
- [South Carolina \(SC\)](#)
- [South Dakota \(SD\)](#)
- [Tennessee \(TN\)](#)
- [Virginia \(VA\)](#)
- [Washington \(WA\)](#)

## Other HIV-Specific Crimes or Sentence Enhancements

15 states have passed statutes that deal specifically with acts that are already crimes, including prostitution, rape or assaulting a peace officer, but are punished separately or more severely when the perpetrator knows he or she has HIV.

- [California \(CA\)](#)
- [Colorado \(CO\)](#)
- [Florida \(FL\)](#)
- [Georgia \(GA\)](#)
- [Indiana \(IN\)](#)
- [Kentucky \(KY\)](#)
- [Louisiana \(LA\)](#)
- [Nevada \(NV\)](#)
- [Ohio \(OH\)](#)
- [Oklahoma \(OK\)](#)
- [Pennsylvania \(PA\)](#)
- [South Carolina \(SC\)](#)
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## HIV-Specific Statutes Search

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## Alaska (AK)

ALASKA

### HIV-Specific Criminal Laws

Alaska has no HIV-specific laws that criminalize HIV exposure or relate to other HIV-specific crimes and/or sentence enhancements.

### STD/Communicable Disease Criminal Laws

Alaska has no public health laws that criminalize exposure to communicable or sexually transmitted diseases.

### Sodomy Statutes

Since the beginning of the AIDS epidemic, Alaska has had no laws that criminalize sodomy. In general, sodomy laws criminalize oral or anal sex, between consenting adults even in the privacy of their homes. As recently as the early 1960s, all 50 states had some sort of criminal law that outlawed consensual sodomy.

### Web Sites of Interest

- [Alaska Court System](#)
- [Alaska Legislature](#)
- [Alaska Section of Epidemiology](#)
- [Alaska Statutes](#)
- [Department of Health and Social Services](#)
- [Division of Public Health](#)
- [State of Alaska](#)

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### Overview

In recent years, most states have enacted laws concerning the testing of criminal offenders and their victims for infection and transmission of the *human immunodeficiency virus* (HIV). HIV causes *acquired immune deficiency syndrome*, (AIDS). Such laws were passed in response to the recognized possibility of the transmission of

HIV/AIDS during sexual assault or abuse, as well as other crimes where an exchange of bodily fluids takes place. They were also the result of a new understanding of the added trauma a sexual assault victim endures when faced with the possibility of having contracted a terminal disease. In a study conducted by the National Center for Victims of Crime and the National Crime Victims Research and Treatment Center, 40 percent (40%) of sexual assault victims indicated that the fear of contracting HIV/AIDS was a major concern. <sup>(1)</sup>

In general, crime victim-related HIV laws require the testing of alleged and convicted sex offenders for HIV/AIDS, and the disclosure of the results of the offenders' tests to the victims. By 1997, 45 states and the District of Columbia had adopted laws requiring HIV/AIDS testing of sexual offenders, if certain conditions are met, in cases involving sexual penetration or other exposure to an offender's bodily fluids. Some of those apply to pre-conviction testing, others to post-conviction testing, and some states have laws that apply both pre-conviction and post-conviction.

Thirty-six states have laws that apply to convicted adult offenders or adjudicated juvenile offenders in sexual assault cases:

- Alabama;
- Arkansas;
- Arizona;
- California;
- Connecticut;
- District of Columbia;
- Florida;
- Georgia;
- Illinois;
- Indiana;
- Iowa;
- Kansas;
- Kentucky;
- Louisiana;
- Maine;
- Maryland;
- Michigan;
- Minnesota;
- Mississippi;
- Missouri;
- Montana;
- Nebraska;
- New Hampshire;
- New Jersey;
- New Mexico;
- New York;
- Oregon;
- Pennsylvania;
- Rhode Island (mandatory for persons sentenced to prison),