



OVERVIEW:

THERA-

PEUTIC

COURTS

1.

**Presentations to House and Senate Judiciary
Committees
February 2 and 3, 2005**

AGENDA

**Therapeutic Justice
in the
Fight Against Addiction Based Crime**

Janet McCabe, Chair, Partners for Progress, Inc.

National Trends: Growth of Therapeutic Courts

**Judge Jim Wanamaker (Ret.), Director, Alaska Center for Therapeutic
Justice (an arm of Partners for Progress, Inc.)**

**How Therapeutic Courts Change Addicted
Offenders**

**The DUI Killer
Strategic Solutions**

**Robyn Johnson, Therapeutic Courts Program Coordinator, Alaska
Court System**

Overview of Alaska's Therapeutic Courts

PURPOSES OF OUR PRESENTATION:

- ✓ **To give you a full understanding of why and how therapeutic courts are effective.**
- ✓ **To have you see that, for strongly addicted repeat offenders, therapeutic courts are the smart and realistic way to protect the public.**
- ✓ **To give you a recommendation about how the Administration and the Legislature can strengthen Alaska's therapeutic court system.**

3.

NATIONAL GROWTH OF THERAPEUTIC COURTS

<u>YEAR</u>	<u>COURTS TO DATE</u>
1989	1
1993	19
1998	347
2003	1183

(Recent information shows that the 2004 total is 1621)

SOURCE: NATIONAL DRUG COURT INSTITUTE

A DAY IN THE LIFE OF THE WELLNESS COURT

**This is a snapshot of one Wellness Court Calendar in
September 2003. It provides a cross-section of the Wellness
Court clientele.**

**James N. Wanamaker
District Court Judge**

description	Current Offense	BAC @ Arrest	Total Priors	Months in Wellness Court
3 year old male	6th DUI	Refusal	10	7 months
4 year old male	5th DUI	0.171	16	18 months (graduated)
3 year old male	PTRP/assault-DV			2 months
3 year old male	5th DUI	Refusal	4	13 months
3 year old female	5th DUI	0.23	4	8 months
7 year old male	Theft 3rd	0.334	54	9 months
5 year old male	11th DUI	Refusal		10 months
7 year old male	3rd DUI	0.222	2	5 months
3 year old male	5th DUI	0.308	7	10 months
year old female	3rd DUI	0.133	3	17 months
3 year old female	Shoplifting			8 months
3 year old male	7 DUI	0.282	17	14 months
year old male	DUI			7 months
year old male	4th DUI	Refusal	10	10 months
year old male	9th DUI	0.18	11	13 months
year old male	9th DUI	Refusal	9	5 months
year old female	Assult, DV		0	14 months
year old male	4th DUI	0.216	5	5 months
year old male	3rd DUI	0.175	4	6 months
year old male	6th DUI	0.255	22	5 months
year old female	4th DUI	Refusal	3	18 months (graduated)
year old male	5th DUI	0.158	9	10 months
year old female	3rd DUI	0.221	4	11 months

PARTNERS' 2005 LEGISLATIVE REQUESTS

1. That the Legislature, in consultation with the Governor, creates a fulltime position within the Administration charged with the duty of implementing therapeutic courts.

Because the Department of Law and its District Attorneys are so central to therapeutic courts, it is recommended that this be an attorney position within the Department of Law. It should be staffed through the regular open application process that would call for a person of suitable training, experience and interest in therapeutic courts. The position description would require fulltime efforts of this person solely on therapeutic court implementation.

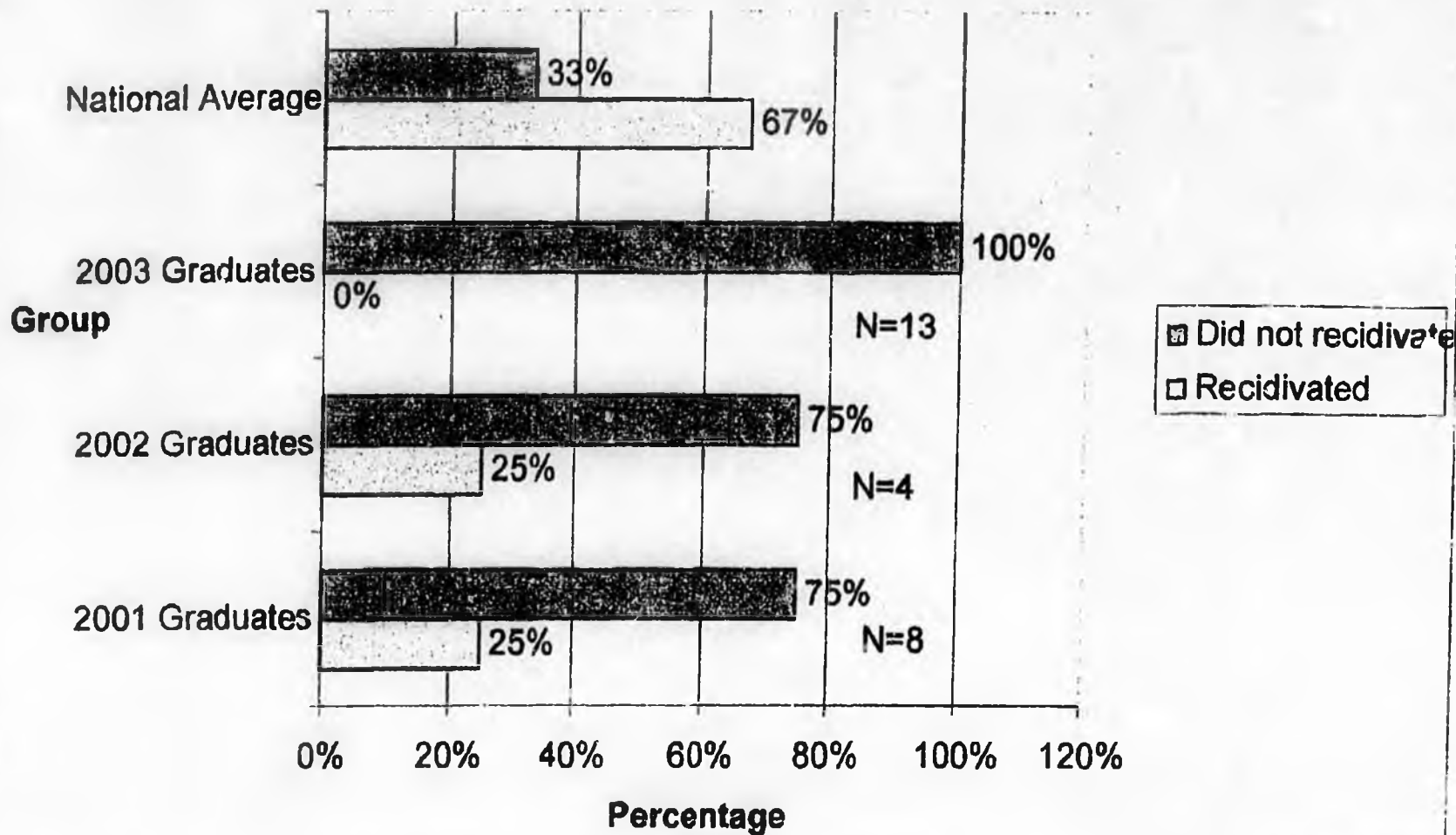
Also, the occupant of this position would be empowered to recommend to the Governor measures that are needed to assure compliance of all administrative agencies in fulfilling their duties as members of therapeutic court teams. Funding of the position through the National Highway Transportation Safety Administration (NHTSA) is a possibility.

2. That the Legislature extends the Wellness Court method to Felony DUI cases.

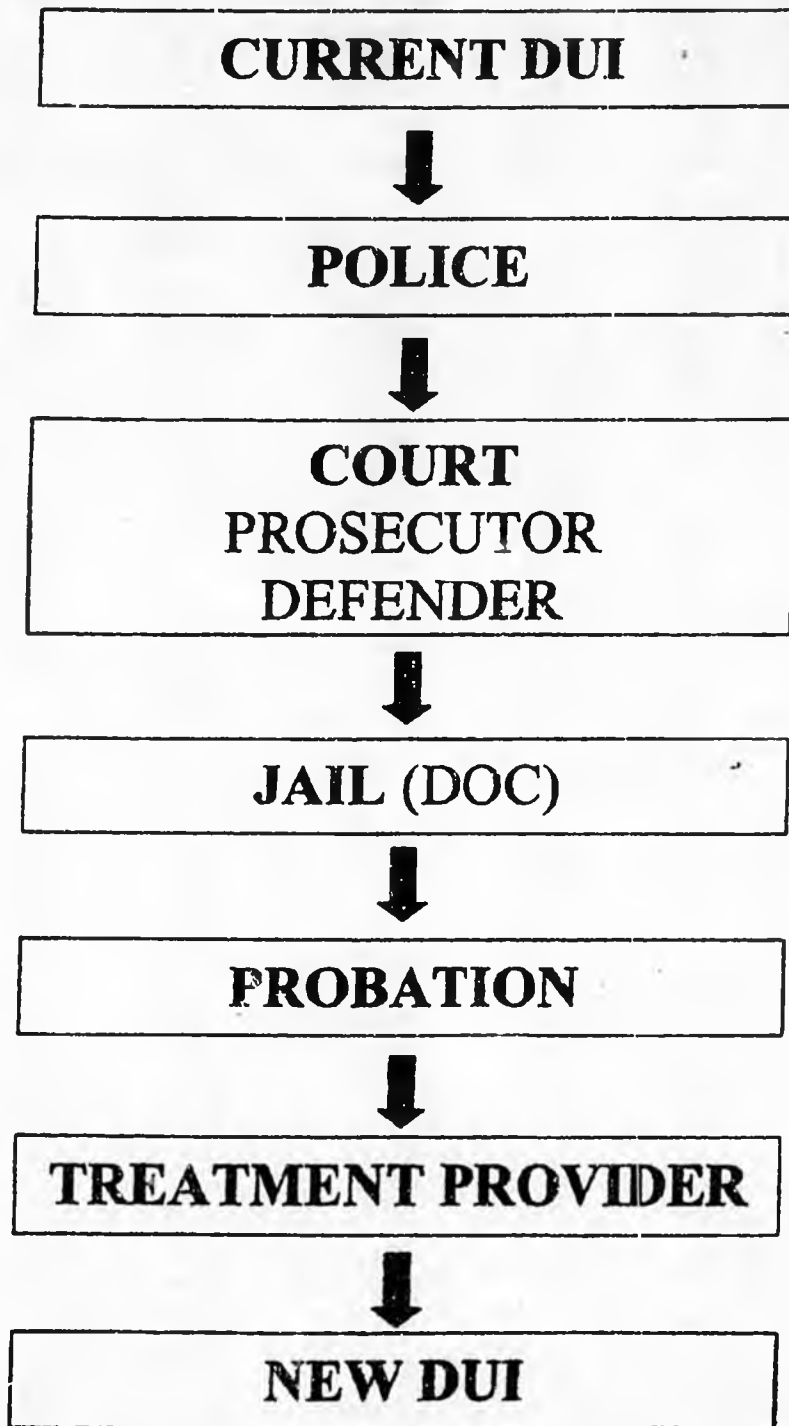
Partners has been working with Representatives Rokeberg on such legislation and it is expected to be introduced shortly. Opening Wellness Courts to felons would create economies of scale and increase public protection from DUI crime. The success of the 18-month "court-ordered treatment" system created by the Legislature in the original (HB 4) legislation is demonstrated by data that shows that over a three-year period after graduation, only 25 percent of Wellness Court graduates have had any repeat crime. This is in stark contrast to the 75 percent repeat of crime for the DUI defendants who serve their time in jail.

Felony DUI defendants are essentially the same population as the misdemeanor defendants who are on their 4th, 5th, 6th or more DUI in the Wellness Courts – all are seriously addicted persons whose crime occurs because of their addiction.

Recidivism Rate Comparison



Typical DUI Case Processing



WELLNESS COURT

The purpose is to get alcohol out of the alcoholic addicted defendant.

The process starts with and Alcohol Assessment by the treatment provider. This is followed by a consultation between the following.

Defendant's Counsel

Prosecutor

Defendant

Case Coordinator

This Consultation results in a

Criminal Rule 11 Agreement

- Completing the Wellness Court Treatment Plan is required.
- **Benefits for Completion:** Reduced Jail & Fines or Dismissal. On DUI cases 75% of mandatory jail and 50% of mandatory fines can be forgiven.
- **Detriments for non-completion:** Jail & Fines as specified in the Rule 11 Agreement.

Treatment Team Review to determine if Defendant is suitable for Wellness Court.

Approval by the Judge: The Rule 11 agreement is reviewed by the Judge, and, if suitable, is approved.

Plea of Guilty or No-Contest.

The Defendant is found Guilty.

Sentencing is set for 18 months later. Defendant must complete the Wellness Court Treatment Plan.

Wellness Court Treatment Plan

Naltrexone
Self Pay

Nalgroup

**Cognitive-Based
Outpatient
Treatment
Provider**

Alaska Human Services
or
The Borealis Center
Self Pay

OR

**Residential
Treatment
Provider**

Salvation Army Adult
Rehabilitation Program
(SAARP)
with joint
Participation by
Alaska Human Services
Self Pay

M. R. T. - Moral Reconation Therapy

Work

A. A.

Abstinence

Intensive Sobriety Monitoring
HAP/EM **Sobrieter** **Police**
Self Pay Self Pay

Frequent Appearances Before the Judge

18 Months Duration

**Case
Coordinator**

**Public
Defender**

**Municipal
Prosecutor**

**Defense
Lawyers**

**Treatment
Provider A**

**Nalgroup
Leader**

**Treatment
Provider B**

D.O.C

AASAP

Partners

**Wellness
Court
Team**

Judge



Graduation Day



Sentence is imposed on the charge

- Credit is given for time spent in HAP/EM
- Credit is given for time spent in residential treatment which is equivalent to jail.
- On DUI cases – up to 75% deduct from mandatory jail and 50% deduct from mandatory fines
- A probation condition is imposed that: “Defendant shall not possess or consume alcohol during probation”
- The court calendars a voluntary hearing 1 year out, where Defendant is invited to report back on his or her progress.

Graduation Ceremony:

Short speeches are made.

A mounted Certificate of Graduation is presented.

The Graduate Speaks.

There is standing applause and congratulations by all.

Summary of Existing Therapeutic Courts

Location	Type of Court	Assigned Judge	Capacity	Target Population	Month/Year Court Began
Anchorage	Anchorage Coordinated Resources Projects	Rhoades/Lohff	80	Misdemeanor offenders with mental illness, co-occurring disorders, developmental disabilities & other related disorders	July 1998
Anchorage	Municipal Wellness Court	Rhoades	40	People convicted of DUI and alcohol related Municipal misdemeanor offenses	August, 1999
Anchorage	Felony Drug Court	Joannides	40	People convicted of non-violent drug and drug related felony offenses	June 2001
Anchorage	Felony DUI Court	Joannides	40	People convicted of felony DUI offenses	December 2001
Bethel	Therapeutic Court	Devaney	45	People convicted of alcohol related felony or misdemeanor offenses	June 2002
Anchorage	Family CARE Court	Rindner	12	Parents with CINA cases Primarily mothers with alcohol related substance abuse problems	September 2002
Anchorage	State Wellness Court	Rhoades	40	People convicted of DUI and alcohol related State misdemeanor offenses	April 2004 - August 2004 Reopened December 2004

Summary of Therapeutic Courts in Planning Process

Location	Type of Court	Assigned Judge	Projected Opening Date	Projected Capacity
Palmer	Coordinated Resources Project	Estelle/Heath	March 2005	12
Fairbanks	Wellness Court	Funk	To be determined	40
Ketchikan	Wellness Court	Miller	April 2005	12
Juneau	Wellness Court	To be determined	March 2005	8 (1st yr) 24 (2nd yr)

“Drug courts are an effective and cost efficient way to help non-violent drug offenders commit to a rigorous drug treatment program in lieu of prison. By leveraging the coercive power of the criminal justice system, drug courts can alter the behavior of non-violent, low-level drug offenders through a combination of judicial supervision, case management, mandatory drug testing, and treatment to ensure abstinence from drugs, and escalating sanctions.”

President George W. Bush

Therapeutic Courts Can Halt Cycle

By Judge James N. Wanamaker and Janet McCabe

What if there was a new governmental program that saved ten dollars for every dollar spent, reduced death and destruction on our highways, helped prevent fetal alcohol syndrome in newborn babies and healed broken families? Well, the therapeutic courts (also called Wellness Courts or DUI Courts) currently operating in Anchorage and Bethel are doing just that and more.

In the traditional system of punitive justice, a person convicted of Driving Under the Influence (DUI) is simply sent to jail for a mandatory term. This gives the public a brief term of protection from the defendant's criminal behavior. However, all such offenders are eventually released. For the addict, being in jail only intensifies the craving for alcohol or drugs. Without treatment - the norm in our current corrections system - the new parolee plunges back into alcoholism, re-offends and is returned to jail. Historically seventy-five percent of Alaska's DUI felons re-offend after a term in jail. This costly cycle has been referred to as the "prison recycling system".

Therapeutic courts intercede to halt this downward cycle by getting the alcohol out of the alcoholic. State Representative Fred Dyson has described this as "doing the smart thing, not just the tough thing".

In actuality, the therapeutic courts are both smart and tough. To use the Anchorage Wellness Court as an example, the offender who "opts-in" commits to a life-changing, eighteen-month program that requires sobriety, addiction treatment, group meetings and employment. He or she is held accountable by repeated appearances before the judge and strict monitoring for alcohol or drug use. Success is applauded. Failure to comply is immediately sanctioned.

Participants in a therapeutic court often start with a certain amount of cynicism and doubt. Most have been through a number of treatments for their addiction. About mid-way they show real change. They have started to taste the rewards of normal, healthy life. Their children now want to be with them. Employers appreciate their reliability and stability.

Freedom from addiction becomes its own reward. As one person said recently in court, "When I started the program, I thought, at least I'll be sober for eighteen months. But now I'm part of the community. I'm out here walking with you. I have a job. I'm responsible; I got a raise at work. My family loves me. It's phenomenal."

The success of the Anchorage Wellness Court has been well documented. Seventy-five percent of the graduates do not re-offend. District Attorneys should do the "smart thing, not just the tough thing" by increasing the numbers of alcoholic offenders brought into the existing therapeutic courts built on the Wellness Court model, including the Anchorage and Bethel Felony DUI Courts and the Anchorage Wellness Court for state misdemeanants.

Money is available. The National Highway Traffic Safety Administration has committed \$885,000 in grant funding in 2005 and will probably provide a similar amount in 2006. The Alaska Court System is doing its part to support therapeutic courts. It has hired and trained people to serve as administrators and project managers, and many judges have received specialized training in therapeutic justice. The Alaska Legislature has been extremely supportive.

However, the Legislature has noted the need for increased dedication by the Administration. During the last session, the Legislature passed Legislative Resolve 65, urging the Department of Law, the Public Defender Agency and the Department of Corrections to increase their participation in the team effort that makes therapeutic courts possible.

The leadership of the Department of Law has expressed support, and Attorney General, Greg Renkes, has graciously agreed to speak at a therapeutic justice seminar in Anchorage on December 6. To convert this top-down support into action in court, his District Attorneys need to bring more cases into the existing therapeutic courts in Anchorage and Bethel. The District Attorneys should also become actively involved in creating new therapeutic courts in other cities.

To learn more about therapeutic courts in Alaska, come to a free seminar that is being held at the Anchorage Museum on Monday, December 6 from 8:30 AM to 3:30 PM. For information email akwellnesspartners@yahoo.com.

Judge James N. Wanamaker and Janet McCabe, Chair, Partners for Progress, Inc. worked together to create and support the Anchorage Wellness Court

Anchorage Wellness Court
Summary of Facts
2003 Update

February 14, 2004

Prepared By:

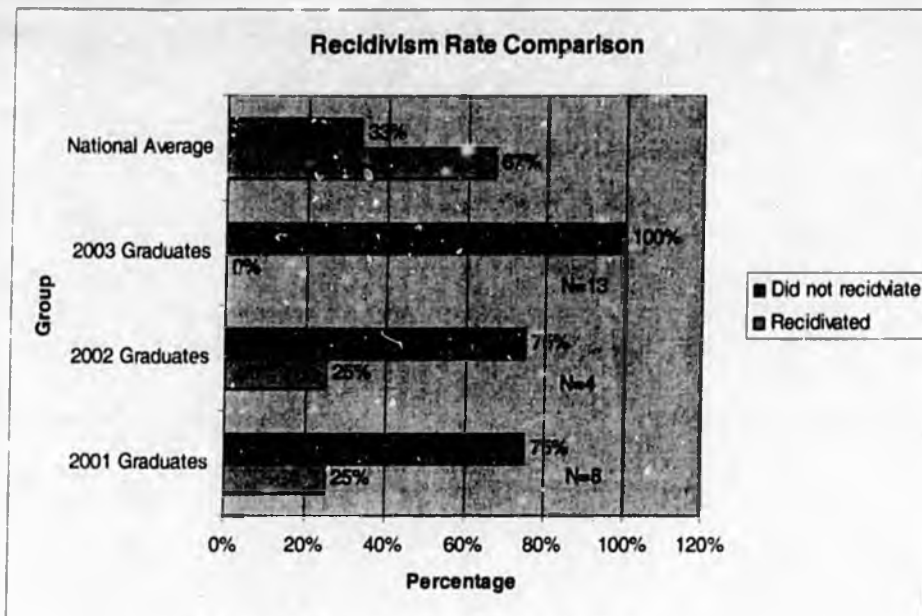
Alan R. McKelvie
Justice Center
University of Alaska, Anchorage

Executive Summary

Anchorage Wellness Court, a therapeutic court for alcoholic misdemeanants, has been operating for three years under Judge James N. Wannamaker of the Anchorage District Court. Participants enter the 18-month program under a plea agreement that gives them a reduced sentence if they complete the program. During their 18 months in the program they must:

- Stay alcohol and drug free,
- Be monitored for sobriety,
- Attend treatment for their addiction,
- Take naltrexone for the first four months
- Attend a weekly group for people on naltrexone,
- Attend a weekly workbook based cognitive behavioral group,
- Attend AA,
- Appear before the judge at regular intervals,
- Be rewarded or sanctioned for progress,
- Be employed,
- Pay restitution,
- Pay most of their treatment costs.

As of December 31, 2003, twenty-five participants had completed this rigorous 18-month program and graduated from Wellness Court. (An additional 5 have graduated since January 1, 2004). The Justice Center obtained recidivism data from the Alaska Court System's case management system and the Department of Corrections movement files. The data consisted of all filed arrests, bookings and convictions for the 2001, 2002, and 2003 participants from January 2001 to February 2004. The results are as follows:



*Based on post-graduation convictions.

Statistical Summary

Gender and age of the 2003 Wellness Court participants varied little compared to previous years. Males comprised 72% percent of the group, compared to 67% in 2002, and 68% in 2001. Females comprised 28% in 2003, 33% in 2002 and 32% in 2001. The average age of participants was also similar.

	2001 Wellness Court	2002 Wellness Court	2003 Wellness Court*	Comparison Group
<i>Total participants</i>	34	45	46	30
<i>Gender</i>	11 female (32%) 23 male (68%)	15 female (33%) 30 male (67%)	13 female (28%) 33 male (72%)	5 female (17%) 25 male (83%)
<i>Average Age of all participants</i>	41	43	41	40
<i>Average Age of male participants</i>	42	43	42	39
<i>Average age of female participants</i>	39	42	41	46

*2003 participant total includes 30 individuals who were carried over from 2002. There were 16 new participants in 2003.

Figure 2 illustrates the Wellness Court participant activity for the years 2001 through 2003 and cumulative. The opt-out category includes participants who violated conditions of release.

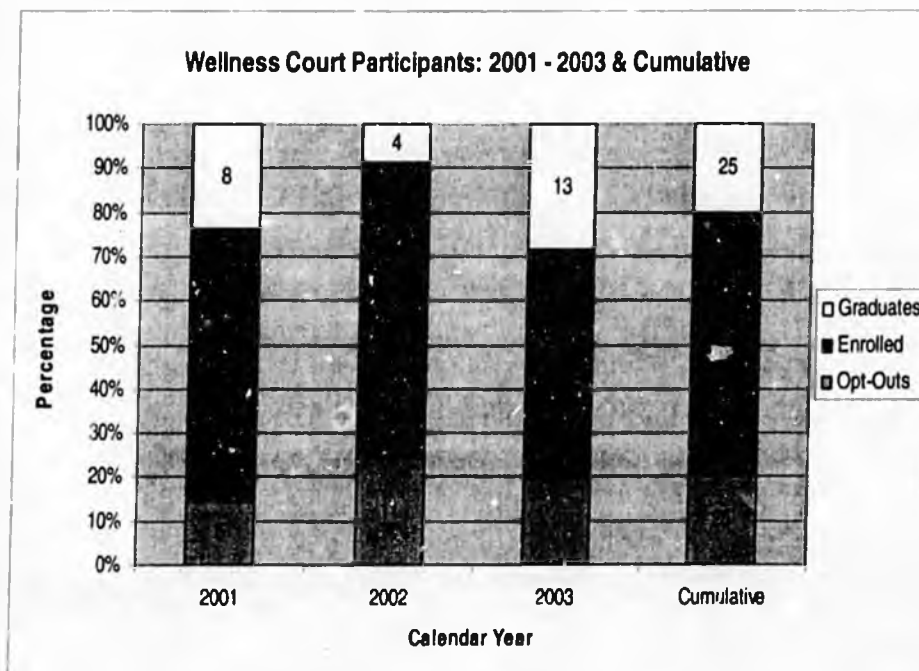


Figure 2

Figure 3 illustrates the gender breakdown of the Court participants. As shown in the first table the ratios are similar across years.

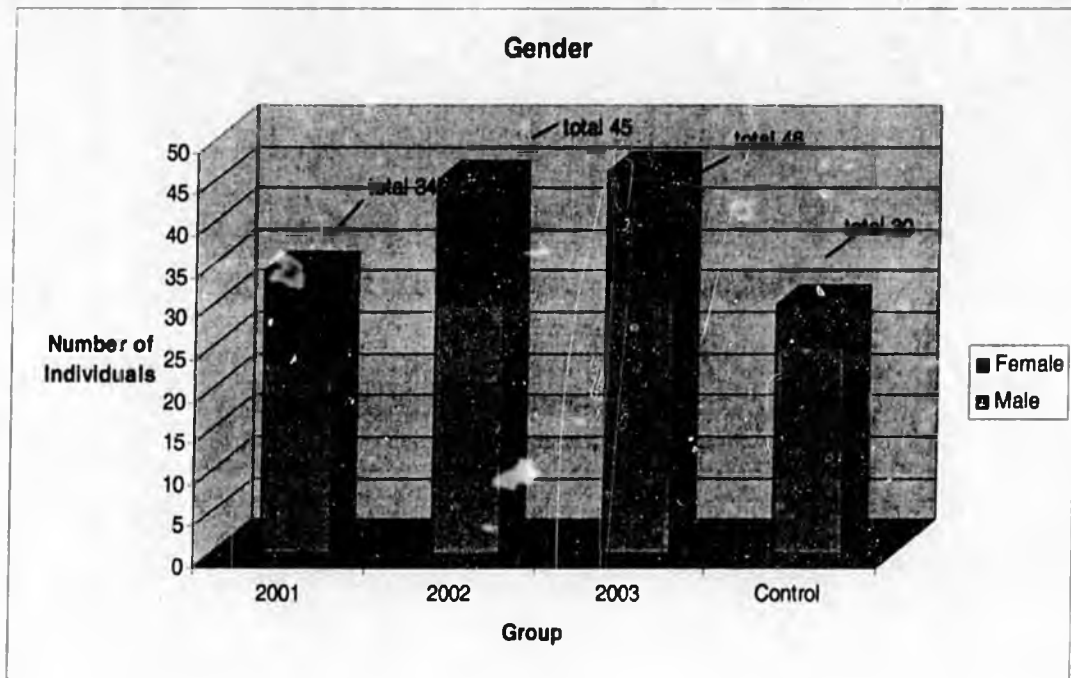


Figure 3

As in previous years the Ethnic makeup of Court participants is primarily Native Alaskan and Caucasian. Only eight individuals fell outside of these two groups.

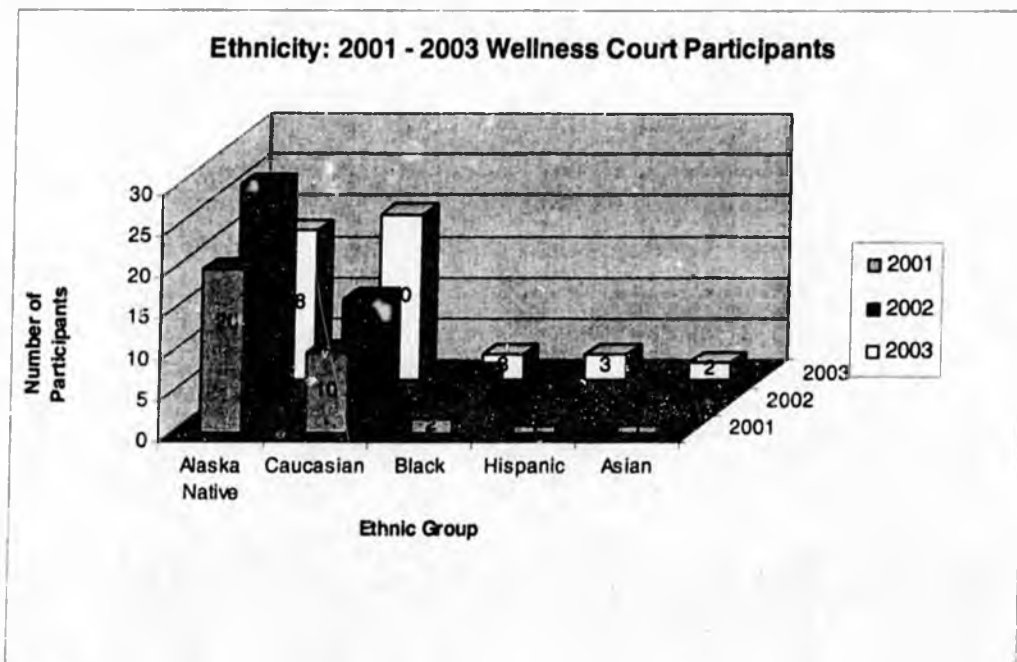


Figure 4

Nearly all of the Wellness Court participants are repeat offenders. Before entering Wellness Court, 2003 participants had accumulated 143 DUI offenses for an average of 3.1 per person. They had also committed 324 non-DUI offenses for an average of 7.0 per person.

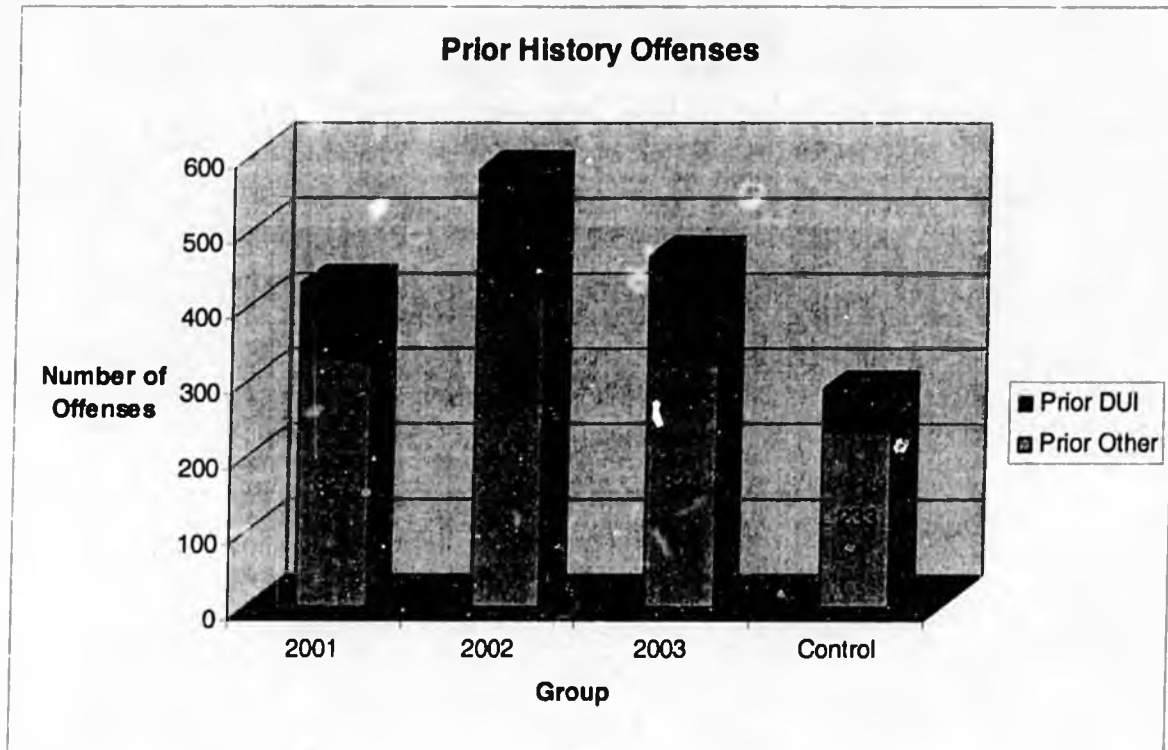


Figure 5

A FOCUS ON REPEATERS

There is a widely held belief among law enforcement officers that a small percent of repeat offenders is responsible for most of the crime committed in Alaska. Members of the judicial and law enforcement system also affirm that most of these repeat offenders are alcohol and drug addicts.

This is the population targeted by the therapeutic courts – repeat addicted offenders. The following “snapshot of one Wellness Court Calendar in September 2003” provided by Judge James N. Wanamaker offers a cross-section of these offenders. By intervening and stopping this costly cycle of repeat offence, the therapeutic courts have a positive impact on the judicial, law enforcement and corrections systems that goes far beyond the defendant’s current case.

A DAY IN THE LIFE OF THE WELLNESS COURT

This is a snapshot of one Wellness Court Calendar in September 2003. It provides a cross-section of the Wellness Court clients.

James N. Wanamaker

District Court Judge

Description	Current Offense	BAC @ Arrest	Total Priors	Months in Wellness
43 year old male	6th DUI	Refusal	10	7 months
44 year old male	5th DUI	0.171	16	18 months (graduate)
39 year old male	PTRP/assault-DV			2 months
48 year old male	5th DUI	Refusal	4	13 months
39 year old female	5th DUI	0.23	4	8 months
47 year old male	Theft 3rd	0.334	54	9 months
45 year old male	11th DUI	Refusal		10 months
40 year old male	3rd DUI	0.222	2	5 months
36 year old male	5th DUI	0.308	7	10 months
41 year old female	3rd DUI	0.133	3	17 months
33 year old female	Shoplifting			8 months
38 year old male	7 DUI	0.282	17	14 months
51 year old male	DUI			7 months
54 year old male	4th DUI	Refusal	10	10 months
54 year old male	9th DUI	0.18	11	13 months
32 year old male	9th DUI	Refusal	9	5 months
37 year old female	Assault, DV		0	14 months
39 year old male	4th DUI	0.216	5	6 months
35 year old male	3rd DUI	0.175	4	6 months
37 year old male	6th DUI	0.255	22	5 months
40 year old female	4th DUI	Refusal	3	18 months (graduate)
41 year old male	6th DUI	0.158	9	10 months
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HB

12

24-LS0058R
Luckhaupt
4/11/05

CS FOR HOUSE BILL NO. 12()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GRUENBERG, LYNN, GARDNER AND MCGUIRE, Ramras, Gara, Elkins

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to televisions, monitors, portable computers, and similar devices in**
2 **motor vehicles; and providing for an effective date."**

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

4 *** Section 1.** AS 28.35 is amended by adding a new section to read:

5 **Sec. 28.35.161. Driving a motor vehicle with a television, monitor, or**
6 **similar device operating; unlawful installation of television, monitor, or similar**
7 **device.** (a) A person commits the crime of driving with a screen operating if

8 (1) the person is driving the motor vehicle;

9 (2) the vehicle has a television, video monitor, portable computer, or
10 any other similar means to create a visual display visible to the person who the
11 person is driving the motor vehicle; and

12 (3) the monitor or visual display is operating while the person is
13 driving.

14 (b) A person may not install or alter equipment described in (a)(2) of this

1 section that allows the display to be visible to the driver while the driver is driving the
2 motor vehicle.

3 (c) Subsections (a) and (b) of this section do not apply to

4 (1) portable cellular telephones; or

5 (2) equipment that displays only

6 (A) audio equipment information, functions, and controls;

7 (B) vehicle information or controls related to speed, fuel level,
8 battery charge, and other vehicle safety or equipment information;

9 (C) navigation or global positioning;

10 (D) maps; or

11 (E) visual information to enhance or supplement the driver's
12 view forward, behind, or to the sides of the motor vehicle for the purpose of
13 maneuvering the vehicle.

14 (d) Subsections (a) and (b) of this section do not apply to equipment installed
15 in an authorized emergency vehicle or to a motor vehicle providing emergency road
16 service or roadside assistance.

17 (e) It is an affirmative defense to a prosecution under (b) of this section that
18 the equipment installed or altered also includes a device that, when the motor vehicle
19 is being driven, disables the equipment for all uses except those described in (c) of this
20 section.

21 (f) A person who violates (a) of this section is guilty of

22 (1) a class A misdemeanor, unless any of the circumstances described
23 in (2) - (4) of this subsection apply;

24 (2) a class C felony if the person's driving causes physical injury to
25 another person;

26 (3) a class B felony if the person's driving causes serious physical
27 injury to another person;

28 (4) a class A felony if the person's driving causes the death of another
29 person.

30 (g) A person who violates (b) of this section is guilty of a class A
31 misdemeanor.

1

* Sec. 2. This Act takes effect September 1, 2005.

24-LS0058\X
Luckhaupt
4/5/05

CS FOR HOUSE BILL NO. 12()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

**Sponsor(s): REPRESENTATIVES GRUENBERG, LYNN, GARDNER AND MCGUIRE, Ramras, Gara,
Elkins**

A BILL

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9 any other similar means to create a visual display visible to the person while the
10 person is driving the motor vehicle;

11 (2) the person is driving ^{the} motor vehicle; and

12 (3) the monitor or visual display is operating.

13 (b) A person may not install or alter equipment described in (a)(1) of this
14 section that allows the display to be visible to the driver while the driver is driving the

1 motor vehicle.

2 (c) Subsection (a) and (b) of this section do not apply to equipment that
3 displays only

4 (1) vehicle information;

5 (2) navigation or global positioning;

6 (3) maps; or

7 (4) visual information to enhance or supplement the driver's view
8 forward, behind, or to the sides of the motor vehicle for the purpose of maneuvering
9 the vehicle.

10 (d) Subsections (a) and (b) of this section do not apply to equipment installed
11 in an authorized emergency vehicle or to a motor vehicle providing emergency road
12 service or roadside assistance.

13 (e) It is an affirmative defense to a prosecution under (b) of this section that
14 the equipment installed or altered also includes a device that, when the motor vehicle
15 is being driven, disables the equipment for all uses except those described in (c) of this
16 section.

17 (f) A person who violates (a) of this section is guilty of

18 (1) a class A misdemeanor, unless any of the circumstances described
19 in (2) - (4) of this subsection apply;

20 (2) a class C felony if the person's driving causes physical injury to
21 another person;

22 (3) a class B felony if the person's driving causes serious physical
23 injury to another person;

24 (4) a class A felony if the person's driving causes the death of another
25 person.

26 (g) A person who violates (b) of this section is guilty of a class A
27 misdemeanor.

28 * Sec. 2. This Act takes effect September 1, 2005.

House Bill 12 -- Televisions and monitors in motor vehicles.

**Deborah Jilly, MPH, CLS
Acting Chief, CHEMS
Div. of Public Health
Department of Health & Social Services**

The intent of this legislation is to prevent motor vehicle crashes and the related injury and death of the vehicle occupants, and pedestrians involved at the crash site, by giving law enforcement agencies the authority to cite drivers who are viewing entertainment devices.

Research has shown that 25% to 56 % of all crashes in the United States involve factors where the driver of a motor vehicle is distracted or is inattentive.

In 2002, A Gallop Survey of Distracted and Drowsy Driving Attitudes and Behaviors found that 22% of causes that led to a crash were the result of dealing with technology within the vehicle. The technology included cell phones, beeper, in-car navigation system, GPS, internet-email, radios, etc.

In Alaska, the National Center for Statistics, Fatality Analysis Reporting System or FARS listed driver inattention or inattentiveness as the primary factor in nearly 7% of fatal crashes in 2003. (2002 - 9.7%; 2001 - 5.4%)

Development of electronic devices for use with a motor vehicle is rapid growing field.

The majority of manufacturers of in-vehicle entertainment systems have reviewed issues pertaining to driver distraction and have included features to minimize distraction such as

- Locating screens out of view of the driver;
- Providing headphone jacks for occupants;
- Developing electronic interlock systems that prohibit driver viewing while the vehicle is in motion.

Yet, the need to improve technology to minimize driver distraction has been acknowledged by automotive manufacturers. Terry Connolly, Director of GM Safety Center acknowledged the growing trend of in-vehicle entertainment system; in turn, manufacturers must address driver distraction in order to ensure safety features are incorporated in future technologies.

- Minimize hands-on, eyes off-the-road time
- Simplify or reduce the number of steps to adjust technology
- Development of a common interface system for multiple devices

However, R&D for these safety features is lagging behind consumer demand.

Detail information in support of this topic.

- Thirty-eight states have legislation banning front-seat entertainment systems;
- Twelve states with similar laws pertaining to televisions and monitors in motor vehicles exempt moving maps and driving direction systems.

Consumers can purchase and install in-vehicle entertainment systems in vehicles not already equipped and the consumer installation can bypass safety devices and manufacturer recommendations for location of screens and controls.

It is also possible, and technology exists, to modify moving map displays to view movies and DVDs.

And as fast as these safety features are developed and implemented by manufacturers, information is available on how to disengage, turn-off or circumvent the safety device on the web.

It should also be noted that it is possible to use a portable (laptop) computer in a motor vehicle for various applications such as listening to music, viewing GPS/map software, and potential view movies. While manufacturers of portable computers and software for maps recommended not using the equipment by drivers while driving, these are only recommendations.

Sarah Hook

From: eggnogg [eggnogg@alaska.net]
Sent: Friday, March 04, 2005 11:04 AM
To: Sarah Hook
Subject: HB 12

Thank you and Representative Gruenberg for e-mailing me a copy of HB 12 which I understand will be introduced for hearing before the Judiciary Committee tomorrow morning. I will be unable to personally testify before the Committee tomorrow but I would appreciate having my written testimony read into the record.

Thank you for the opportunity to comment on HB 12 and thanks to the sponsors of this bill. Its introduction and hopeful passage should save lives of our friends, family, neighbors, co-workers, other community members and visitors to our state and serve as a useful deterrent to thoughtless and grossly negligent use of the stated devices. The bill centers legal responsibility on those persons and businesses that are in the best position to avoid harm to the public.

Over two years ago, close friends were killed in an accident that devastated family, friends, co-workers in what was alleged to have been a driver watching a DVD. This vehicle purportedly crossed over into our friends' driving lane snuffing out their lives and devastating all who knew and loved them. I sat through much of a very high profile trial in which the driver was charged with the murder of my friends. The jury acquitted that driver because of reasonable doubt as to his guilt. I believe the outcome of that trial might have been very different had the Alaska State Troopers investigating at the accident scene and the Alaska Crime Lab had better training on how to determine whether the DVD was engaged and playing at the vehicles' impact. As the State Crime lab apparently cut or disabled the battery, it could not be forensically determined whether the DVD was engaged on impact. I believe in addition to HB12 's passage, this Legislature should appropriate sufficient public safety funding to better ensure proper field and crime lab training to deal with collecting evidence with this relatively new technology so that spoliation of critical evidence is far less likely to occur.

Thank you for your thoughtful consideration and hopeful positive reporting out of this bill from your Committee.

Respectfully,

Russell A. Nogg
515 Fredricks Drive
Anchorage, Alaska 99504
(907) 276-6040 or (907) 337- 6851

■ BOTTOM LINE: The city is right to ask a large local church to justify exempting so many houses from local property taxes.

DVD case

There oughtta be a law about this

Erwin "Jamie" Petterson Jr. may or may not have been watching a DVD when he crashed his truck into another vehicle and killed two people on the Seward Highway. A jury will decide that question.

But his case does highlight a gap in Alaska law. Unlike many other states, Alaska has no rule against installing a video screen inside a vehicle where it can distract a driver.

This is one of those laws we wouldn't need if people would just use common sense. But in today's video-saturated, constant-stimulation culture, some folks apparently just have to have videos at their fingertips while they're behind the wheel.

It's one thing to have a video player for kids riding in the backseat. But putting one where a driver can see it is downright idiotic. Even if the player is wired to shut off when the car is in gear, it puts too much temptation in front of a video junkie driver. It is too easy to eliminate the cut-off switch, as Mr. Petterson did when he installed his DVD player.

This should be a no-brainer: No video players in view of the driver's seat. Period, end of discussion.

The fastest a bill can move through the Alaska Legislature's normal process is about a week. When lawmakers show up in January, it shouldn't take them any longer than that to ban video players from vehicle dashboards.

■ BOTTOM LINE: Give it up, video junkies. Those dashboard DVD players have got to be banned.

ALASKA ALMANAC

Weird animal news



Anchorage Daily News

August 7, 2004

HB 12

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

Representative Max Gruenberg

MEMORANDUM

Date: March 21, 2005

To: Representative Lesil McGuire, Chair
House Judiciary Committee

From: Representative Max Gruenberg

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

Re: House Bill 12

I respectfully request that House Bill 12, "An act relating to televisions and monitors in motor vehicles," be scheduled for hearing in the House Judiciary Committee at your earliest possible convenience.

Enclosed please find:

- The most recent version of the bill
- Sponsor statement
- Sectional analysis
- Fiscal Notes
- Additional background materials

We will update you with additional material as it becomes available and provide a list of witnesses in advance of the meeting. Thank you.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

Sponsor Statement and Sectional Analysis

HB 12 – Televisions and Monitors in Motor Vehicles

The purpose of the bill is to prevent operators of motor vehicles from watching television, video, and any other programming by making it a crime. Furthermore the bill makes it a crime to install a device capable of being viewed while the vehicle is in operation.

Sectional analysis

Paragraph (a) sets forth the general rule that a person shall not drive a motor vehicle while watching television or video.

Paragraph (b) prohibits installing video equipment in a motor vehicle that can be viewed by the driver while the vehicle is moving. This paragraph goes on to provide for specified means of disabling the equipment lawfully.

Paragraph (c) provides specific exemptions to the general rule that are all in the nature of aides to navigation or operation.

Paragraph (d) makes it clear that the bill is not intended to cover mobile digital terminals that are intended to provide emergency service or roadside assistance.

Paragraph (e) prescribes the types of crimes that a person who is in violation of the law will face under various circumstances including injury and death of another.

A person who violates the law is guilty of a

- (1) class A misdemeanor
- (2) class C felony if as a result of that violation another person suffers a physical injury;
- (3) class B felony if as a result of that violation another person suffers a serious physical injury ;
- (4) class A felony if as a result of that violatio. another person suffers death.

Paragraph (f) prescribes the crime and punishment of a person who installs equipment in violation of the law.

FISCAL NOTE HB 12

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB012-DPS-ASTD-2-28-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Televisions and monitors in motor vehicles RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Representative Gruenberg
 Requester House State Affairs Component No. 2325

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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)*

Passage of this bill will have no fiscal impact on the Department of Public Safety.

This bill will prohibit the driver of a motor vehicle from watching a television receiver, video monitor, TV video screen, or similar device for viewing television or video signals while operating the motor vehicle. It also prohibits the installation of these devices so that they can be viewed by the driver of a motor vehicle while the vehicle is in motion. The bill does allow the following equipment; a vehicle information display; a GPS display; a mapping display; and a display used to enhance a drivers view forward, behind, or to the sides of the vehicle.

Prepared by: Lieutenant Todd Sharp Phone 907-465-3223
 Division Alaska State Troopers Date/Time 2/28/05 1:26 PM
 Approved by: Commissioner William Tandeske Date 2/28/2005
 Agency Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB012-DPS-CRI-2-28-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title An Act relating to televisions and RDU Statewide Support
monitors in motor vehicles Component Alaska Criminal Records &
 Sponsor Representative Gruenberg Identification
 Requester House State Affairs Component No. 1190

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (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)

This bill creates new AS 28.35.16 (a) to prohibit operating of a motor vehicle while watching a television or monitor; (b) prohibits installing a television or monitor viewable by the driver without an interlock; (c) exempts vehicle information, GPS, map, or maneuvering displays, and equipment with an interlock; (d) exempts emergency or assistance vehicles; (e) and (f) provides the penalties. AS 28.35.16(a) creates four different levels of offense (misdemeanor or felony, depending on the facts), which may cause confusion and increase the risk of error on forms and in criminal record systems. Although some criminal statutes share this format, it should be avoided when new crimes are created because it may cause a misdemeanor to be erroneously identified as a felon, or vice versa, and can result in a violation of the person's rights and privileges and a risk to public safety. To avoid this, the Department proposes that the four different levels of offense be differentiated in four separate statutes, as are assault and sexual abuse of a minor statutes.

Prepared by: Director David Schade
 Division: Statewide Services
 Approved by: Commission William Tandeske
 Agency: Department of Public Safety

Phone 269-5092
 Date/Time 2/28/05 1:39 PM
 Date 2/28/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB012-LAW-CDCO-2-28
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to televisions and monitors RDU CRIMINAL
in motor vehicles. Component Criminal Justice Litigation
 Sponsor Representative Gruenberg
 Requester House State Affairs Component No. _____

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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)

This bill amends AS 28.35 prohibiting watching a television receiver, a video monitor or the like while driving a motor vehicle. The bill similarly prohibits the installation of televisions or monitors or the like in such a way that they can be viewed by the driver of the vehicle unless there is a locking device that blocks power to the the unit while the motor vehicle is in motion. The bill excepts vehicle information display, GPS, mapping display, or equipment intended to enhance the driver's view forward, behind or to either side of the motor vehicle. The bill does not apply to emergency vehicles.

The Department of Law does not anticipate that there will be many new prosecutions arising out of passage of this legislation, and thus does not anticipate a fiscal impact.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 2/28/05 2:57 PM
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 2/28/2005
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 12
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to televisions RDU Legal and Advocacy Services
and monitors in vehicles Component Public Defender Agency
 Sponsor Reps. Gruenberg, Lynn, Gardner,...
 Requester House State Affairs Component No. 1631

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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)
 This bill creates a number of new offenses, including felonies, for operating a motor vehicle while watching a TV or video monitor or installing such equipment that is capable of being viewed by the driver while the vehicle is moving. Due to the indigency of public defender clients this bill, if enacted, is not expected to have a significant fiscal impact on the operations of the Agency.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)334-4416
 Division: Public Defender Agency Date/Time 3/1/05 7:26 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 3/1/2005
 Agency: Department of Administration



Consumer Electronics Association

2500 Wilson Blvd. Arlington, VA 22201-3834 USA (703) 907-7600 main (703) 907-7601 fax www.CE.org

March 16, 2005

VIA E-MAIL

Page 1 of 3

The Honorable Paul Seaton
Chair, State Affairs Committee
House of Representatives
Alaska State Capitol
Juneau, Alaska 99801-1182

Re: **H.B. 12 ("An act relating to televisions and monitors in motor vehicles")**

Dear Representative Seaton:

The Consumer Electronics Association (CEA) appreciates the opportunity to present its comments regarding House Bill 12 for the hearing scheduled on March 17, 2004 before the House State Affairs Committee.

CEA represents more than 1,800 companies involved in the design, development, manufacturing, distribution and integration of audio, video, in-vehicle electronics, wireless and landline communications, information technology, home networking, multimedia and accessory products, as well as related services that are sold through consumer channels. CEA also produces the nation's largest annual trade event, the International Consumer Electronics Show.

CEA welcomes the introduction of H.B. 12, which is an opportunity to revise and elevate Alaska's current law concerning in-vehicle video displays. CEA's main interest in this subject is to achieve and maintain a consistent regulatory approach to in-vehicle video displays across the United States, which benefits consumers, industry and the law enforcement community.

Two years ago, CEA developed model legislation regarding in-vehicle video displays, and versions of the model have been enacted in both California and Louisiana. The Louisiana legislation was subsequently adopted by the Council of State Governments for its 2004 volume of *Suggested State Legislation*. Attached is a copy.

The CEA model legislation (copy below) achieves three important objectives with regard to regulating in-vehicle video displays: consistency, flexibility and focus. As mentioned above, it is beneficial to achieve and maintain uniformity among the states with laws on this subject. Secondly, regarding flexibility, the model legislation avoids calling out specific technologies, which always change over time. Finally, the model legislation focuses on the video functions of concern while avoiding a broad ban on any visual presentation, such as navigation displays.

**Suggested Language for Legislation
Concerning In-Vehicle Video**

- (a) A person may not operate a motor vehicle if a television receiver, a video monitor, or a television or video screen capable of displaying a television broadcast or video signal that produces entertainment or business applications, is located in the motor vehicle at any point forward of the back of the driver's seat, or is visible to the driver while operating the motor vehicle.
- (1) Section (a) does not apply to the following equipment when installed in a motor vehicle:
- (i) A vehicle information display;
 - (ii) A navigation or global positioning display;
 - (iii) A visual display used to enhance or supplement the driver's view forward, behind, or to the sides of a motor vehicle for the purpose of low-speed maneuvering of the vehicle;
 - (iv) A television receiver, video monitor, television or video screen or any other similar means of visually displaying a television broadcast or video signal, if that equipment has a device that, when the motor vehicle is being driven, disables the equipment for all uses except as a visual display as described in paragraphs (i)–(iii).
- (b) A person may not install in a motor vehicle a television receiver, a video monitor, or a television or video screen capable of displaying a television broadcast or video signal that produces entertainment or business applications at any point forward of the back of the driver's seat, or that is visible to the driver while operating the motor vehicle.

As introduced, H.B. 12 closely follows the model supported by CEA. One issue the committee might wish to consider is whether the last sentence in Section (b) of the H.B. 12 is redundant given the preferred language in Section (c)(5). In addition, the reference to "remove power" in Section (b) might be too proscriptive.

House State Affairs Committee
March 16, 2005
Page 3

Thank you again for the opportunity to provide the views of the consumer electronics industry regarding H.B. 12, and please let us know if you or the Committee have questions or need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Douglas Johnson", with a long horizontal flourish extending to the right.

Douglas Johnson
Senior Director, Technology Policy
djohnson@ce.org

2500 Wilson Boulevard
Arlington, VA 22201-3854, USA
Tel +1 703-907-7600

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MICHAEL L. LESSMEIER
GREGORY W. LESSMEIER
SHELDON E. WINTERS

TELEPHONE: (907) 796-4999
FACSIMILE: (907) 796-4998
E-MAIL: lw@gcl.net

By Fax and Mail

February 28, 2005

Representative Max Gruenberg
Representative Bob Lynn
Representative Berta Gardner
Representative Lesil McGuire
State Capitol
Juneau, Alaska 99801

Re: HB 12

Dear Representatives:

On behalf of State Farm Insurance Companies, I would like to express State Farm's support of HB 12, "An Act relating to televisions and monitors in motor vehicles." If there is any information we can provide to you, please let me know.

Sincerely,



Sheldon E. Winters

SEW/caf

RepsGruenberg-Lynn-Gardner-McGuire.wpd

Sarah Hook

From: egglogg [egglogg@alaska.net]
Sent: Friday, March 04, 2005 11:04 AM
To: Sarah Hook
Subject: HB 12

Thank you and Representative Gruenberg for e-mailing me a copy of HB 12 which I understand will be introduced for hearing before the Judiciary Committee tomorrow morning. I will be unable to personally testify before the Committee tomorrow but I would appreciate having my written testimony read into the record.

Thank you for the opportunity to comment on HB 12 and thanks to the sponsors of this bill. Its introduction and hopeful passage should save lives of our friends, family, neighbors, co-workers, other community members and visitors to our state and serve as a useful deterrent to thoughtless and grossly negligent use of the stated devices. The bill centers legal responsibility on those persons and businesses that are in the best position to avoid harm to the public.

Over two years ago, close friends were killed in an accident that devastated family, friends, co-workers in what was alleged to have been a driver watching a DVD. This vehicle purportedly crossed over into our friends' driving lane snuffing out their lives and devastating all who knew and loved them. I sat through much of a very high profile trial in which the driver was charged with the murder of my friends. The jury acquitted that driver because of reasonable doubt as to his guilt. I believe the outcome of that trial might have been very different had the Alaska State Troopers investigating at the accident scene and the Alaska Crime Lab had better training on how to determine whether the DVD was engaged and playing at the vehicles' impact. As the State Crime lab apparently cut or disabled the battery, it could not be forensically determined whether the DVD was engaged on impact. I believe in addition to HB12's passage, this Legislature should appropriate sufficient public safety funding to better ensure proper field and crime lab training to deal with collecting evidence with this relatively new technology so that spoliation of critical evidence is far less likely to occur.

Thank you for your thoughtful consideration and hopeful positive reporting out of this bill from your Committee.

Respectfully,

Russell A. Nogg
515 Fredricks Drive
Anchorage, Alaska 99504
(907) 276-6040 or (907) 337- 6851

nbc6.net

NBC 6 Investigation: Reckless Ride

More Motorists Watching TV While Driving

POSTED: 9:02 am EST February 11, 2005
UPDATED: 7:19 am EST February 16, 2005

MIRAMAR, Fla. -- They're on our roadways -- people driving and watching TV screens at the same time. It's a reckless ride that NBC 6 found happening more and more.

Watching video in cars has been around for years, but usually for passengers in the back seat.

FeedRoom



Reckless Ride

NBC 6 FeedRoom

Now, more of these new entertainment systems are being installed in the front seat where drivers can see the n. You can watch movies, music videos and even live television.

For safety's sake, the driver is supposed to be restricted from watching while the car is moving, but NBC 6's Willard Shepard found several motorists watching while driving.

SURVEY

Can motorists safely watch television and drive at the same time?

- Yes
- No

[Vote](#)

[Results](#) | [Disclaimer](#)

"Sure, I could watch the DVD while driving," Janet Rodriguez said.

"If we be careful and pay attention to the road, we're not going to hurt nobody," Juan Montoya said.

In West Miami-Dade County, downtown, on Miami Beach and in Broward County, NBC 6 found drivers breaking the law -- finding ways around safety systems designed to prevent viewing television from the driver's seat.

Alaska prosecutors say driving and watching television led to a crash that killed Robert and Donna Weiser. Some legal observers say driver Jamie Petterson was acquitted of murder in the case because police didn't establish exactly what he was viewing before the TV device was taken from the dashboard after the crash.

On the 836, NBC 6 saw Steven Rivera watching a DVD and talking on his cell phone at 60 mph. When interviewed, he told us about clubs sprouting up for those who drive and watch.

"We've got the same TV on the dash in the same place," Rivera said.

Surprisingly in Florida, watching while driving is a non-criminal traffic infraction. The penalty is a \$71 ticket -- no deterrent to drivers like Montoya, who has an illegal TV.

"Yeah, I've been stopped. We got a lot of tickets," he said.

As a state legislator, Miami-Dade Commissioner Sally Heyman tried to toughen the penalties for distracted drivers. A study she pushed found that distracted drivers were hurt or killed twice as often as drivers in other accidents.

She says it's only a matter of time before a TV-watching driver kills a South Florida resident.

"As it becomes more available, as more people do it, you bet (it will happen)," Heyman said.

Lester Taks, who runs Cartronics where these entertainment systems are properly installed, says the front seat TVs are manufactured with devices to shut the video off when the car is in motion.

"It will shut down and this is the way they come from the factory," Taks said. "They are designed to work that way -- all of them."

But drivers told NBC 6 they didn't have any trouble finding ways around the safeguards. Some even told us where they had the work done.

With our undercover camera rolling, a worker at the Senor Stereo outlet in Pembroke Pines said, "We could hook it up so you can watch it."

But when confronted with a camera, the workers officially had no comment. Later, the company faxed a statement saying, "These systems are installed according to manufacturer recommendations."

Montoya said Best Buy installed his TV system and it came so he could watch and drive at the same time.

"That's how they do it," he said.

We went to a Best Buy store on Pines Boulevard where one employee told an NBC 6 producer how to bypass the safety system, but he said they would not do it and that we would have to do it on our own.

Best Buy responded saying it is concerned about the safe use of mobile electronics products and that the "products are installed in a manner that ensures the video mode of the product is not operable while the vehicle is in motion."

Florida Attorney General Charlie Crist says there's a need for the Legislature to take a close look at updating the Florida law to protect everyone on the road.

"If it is happening and it is increasing ... That's why it's important for policy makers to be vigilant about what modern technologies keep coming online," Crist said.

Another distraction is other motorists driving near a car with a TV screen because they're tempted to look over and see what's playing.

Installers point out the screens play a valuable role for drivers, displaying navigation aids and rear-mounted cameras that prevent backing over children.

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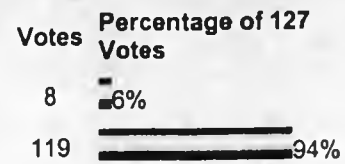


Can motorists safely watch television and drive at the same time?

Choice

Yes

No



Thanks for sharing your opinion!

[close window](#)

583 P.2d 840 (Alaska 1978); *State v. Afcan*, 583 P.2d 849 (Alaska 1978); *Daniels v. State*, 584 P.2d 47 (Alaska 1978); *Honeycutt v. State*, 583 P.2d 805 (Alaska 1978); *Ferguson v. State*, 590 P.2d 43 (Alaska 1979); *One v. State*, 592 P.2d 1193 (Alaska 1979); *Dayton v. State*, 598 P.2d 67 (Alaska 1979); *Stone v. State*, 598 P.2d 72 (Alaska 1979); *Edinger v. State*, 598 P.2d 943 (Alaska 1979); *Larson v. State*, 598 P.2d 946 (Alaska 1979); *LaBarbera v. State*, 598 P.2d 947 (Alaska 1979); *Elstad v. State*, 599 P.2d 137 (Alaska 1979); *Charles v. State*, 606 P.2d 390 (Alaska 1980); *Pyrdol v. State*, 617 P.2d 513 (Alaska 1980); *Coleman v. State*, 621 P.2d 869 (Alaska 1980), cert. denied, 454 U.S. 1090, 102 S. Ct. 653, 70 L. Ed. 2d 628 (1981); *Shearer v. State*, 619 P.2d 726 (Alaska 1980); *Nelson v. State*, 619 P.2d 480 (Alaska Ct. App. 1980); *Bryant v. State*, 623 P.2d 310 (Alaska 1981); *Hoover v. State*, 641 P.2d 1263 (Alaska Ct. App. 1982); *Davidson v. State*, 642 P.2d 1383 (Alaska Ct. App. 1982); *Parker v. State*, 714 P.2d 802 (Alaska Ct. App. 1986); *State v. Price*, 740 P.2d 476 (Alaska Ct. App. 1987); *State v. Capjohn*, 779 P.2d 1255 (Alaska Ct. App. 1989); *State v. Clark*, 782 P.2d 308 (Alaska Ct. App. 1989).

Sentence too lenient. — See *State v. Chaney*, 477 P.2d 441 (Alaska 1970); *State v. Wortham*, 537 P.2d 1117 (Alaska 1975); *State v. Lancaster*, 550 P.2d 1257 (Alaska 1976); *State v. Abraham*, 566 P.2d 267 (Alaska 1977); *State v. Wassilie*, 578 P.2d 971 (Alaska 1978); *Putnam v. State*, 629 P.2d 35 (Alaska 1980); *State v. Brinkley*, 681 P.2d 351 (Alaska Ct. App. 1984); *Cleary v. State*, 548 P.2d 952 (Alaska 1976); *Salazar v. State*, 562 P.2d 694 (Alaska 1977); *Cleary v. State*, 564 P.2d 374 (Alaska 1977); *Amidon v. State*, 565 P.2d 1248 (Alaska 1977); *Black v. State*, 569 P.2d 804 (Alaska

1977); *Sumabat v. State*, 580 P.2d 323 (Alaska 1978); *Hansen v. State*, 582 P.2d 1041 (Alaska 1978); *Kanipe v. State*, 620 P.2d 67P (Alaska 1980); *Hintz v. State*, 627 P.2d 207 (Alaska 1981); *State v. Hooper*, 750 P.2d 840 (Alaska Ct. App. 1988).

Inclusion of improper reference to unverified police contacts did not require remand for resentencing before different judge. — See *Parke v. State*, 571 P.2d 1003 (Alaska 1977).

Reference to unverified police contacts in a presentence report does not require a remand for resentencing where the record indicates that the sentencing judge was not unduly or improperly influenced by reference to the unverified police contacts. *Pascoe v. State*, 628 P.2d 547 (Alaska 1980).

Case remanded for resentencing. — See *Neal v. State*, 628 P.2d 19 (Alaska 1981).

Case remanded for sentence review. — Although a sentence of 15 years' imprisonment with eligibility for parole at the discretion of the parole board upon conviction of manslaughter was not excessive, since the trial court had sentenced defendant as if his conviction had been obtained within one year of the crime and therefore substantially ignored his subsequent history of steady employment, his meritorious service in the army, and his lack of involvement in any criminal activity other than a few traffic offenses in the 12 years since the commission of the crime, the case was remanded for the purpose of permitting the trial court to review the sentence if imposed, in light of all available information concerning defendant without excluding the time period commencing one year from the time of the killing until the present. *Padie v. State*, 594 P.2d 50 (Alaska 1979).

Sec. 12.55.125. Sentences of imprisonment for felonies. (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;

(3) the court finds by clear and convincing evidence that the defendant subjected the murder victim to substantial physical torture; or

(4) the defendant is convicted of the murder of and personally caused the death of a person, other than a participant, during a robbery.

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 10 years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an

adopted parent, a legal to the child; or (2) caused under AS 11.41.200 — authority" have the m

(c) Except as provided may be sentenced to a be sentenced to the following 12.55.155 — 12.55.175

(1) if the offense is described in (2) of this

(2) if the offense is

(A) other than for dangerous instrument offense, or knowingly otherwise clearly identified medical technician, par was engaged in the per

(B) for manslaughter directed towards a child

(C) for manslaughter while under the influence seven years;

(3) if the offense is

(4) if the offense is sentencing under (l) of

(d) Except as provided may be sentenced to a be sentenced to the following 12.55.155 — 12.55.175

(1) if the offense is

(2) if the offense is

(e) Except as provided may be sentenced to a shall be sentenced to the in AS 12.55.155 — 12.5

(1) if the offense is

(2) if the offense is

(3) if the offense is 08.54.720(a)(15), one y

(f) If a defendant is

(1) imprisonment for pending under AS 12.55

(2) imposition of sen

(3) imprisonment for except as provided in (j

(g) If a defendant is section, except to the e

(1) imprisonment ma

(2) imposition of sent

(3) terms of imprison

(h) Nothing in this se except as specifically pr to impose a sentence of

adopted parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 — 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470.

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;

(2) if the offense is a first felony conviction

(A) other than for manslaughter and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven years;

(B) for manslaughter and the conduct resulting in the conviction was knowingly directed towards a child under the age of 16, seven years;

(C) for manslaughter and the conduct resulting in the conviction involved driving while under the influence of an alcoholic beverage, inhalant, or controlled substance, seven years;

(3) if the offense is a second felony conviction, 10 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (l) of this section, 15 years.

(d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, four years;

(2) if the offense is a third felony conviction, six years.

(e) Except as provided in (i) of this section, a defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, two years;

(2) if the offense is a third felony conviction, three years;

(3) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one year.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum or mandatory term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed minimum or mandatory term may not be reduced, except as provided in (j) of this section.

(g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), or (i) of this section, except to the extent permitted under AS 12.55.155 — 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided. Nothing in (a) of this section limits the court's discretion to impose a sentence of 99 years imprisonment, or to limit parole eligibility, for a person

convicted of murder in the first or second degree in circumstances other than those enumerated in (a).

(i) A defendant convicted of

(1) sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 40 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a first felony conviction and does not involve circumstances described in (B) of this paragraph, eight years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 15 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 20 years;

(E) if the offense is a third felony conviction and the defendant is not subject to sentencing under (F) of this paragraph or (l) of this section, 25 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (l) of this section, and the defendant has two prior convictions for sexual felonies, 30 years;

(2) attempt, conspiracy, or solicitation to commit sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a first felony conviction and does not involve circumstances described in (B) of this paragraph, five years;

(B) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 10 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 15 years;

(E) if the offense is a third felony conviction, does not involve circumstances described in (F) of this paragraph, and the defendant is not subject to sentencing under (l) of this section, 15 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (l) of this section, and the defendant has two prior convictions for sexual felonies, 20 years;

(3) sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography may be sentenced to a definite term of imprisonment of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a second felony conviction and does not involve circumstances described in (B) of this paragraph, five years;

(B) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 10 years;

(C) if the offense is a third felony conviction, does not involve circumstances described in (D) of this paragraph, 10 years;

(D) if the offense is a third felony conviction, and the defendant has two prior convictions for sexual felonies, 15 years;

(4) sexual assault or possession of child pornography in the second degree or sexual exploitation of a minor in the second degree may be sentenced to a definite term of imprisonment of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is described in (B) of this

(B) if the offense is a sexual felony, the

(C) if the offense is described in (D) of this

(D) if the offense is a felony conviction for sexual

(j) A defendant sentenced under (a) of this section may

Alaska Rules of Criminal Procedure consider the defendant for a

ment under (l) of this section, and the defendant has two prior convictions for sexual felonies, 30 years;

under the Alaska Rules of Criminal Procedure, the definite term or (B) of this section, and the defendant has two prior convictions for sexual felonies, 30 years;

more than one motion for a new trial, regardless of the grounds therefor, shall be granted.

(k) A first felony offense for which a sentence of imprisonment is not suspended

(1) may be sentenced to a definite term of imprisonment of not more than 20 years and shall be sentenced to the following presumptive term for a defendant who is convicted of a felony offense of the age of 16;

(2) except as provided in this section, a defendant convicted of a felony offense shall be sentenced to a definite term of imprisonment of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a first felony conviction and does not involve circumstances described in (B) of this paragraph, five years;

(B) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 10 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 15 years;

(E) if the offense is a third felony conviction, does not involve circumstances described in (F) of this paragraph, and the defendant is not subject to sentencing under (l) of this section, 15 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (l) of this section, and the defendant has two prior convictions for sexual felonies, 20 years;

(1) imprisonment for a term of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(2) imposition of a sentence of imprisonment for a term of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(3) imprisonment for a term of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(m) Notwithstanding any other law, a mandatory term of imprisonment of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(a)(4) of this section, and the defendant has two prior convictions for sexual felonies, 30 years;

a definite term of imprisonment of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

166 SLA 1978; am § 18

(4) sexual assault in the third degree, incest, indecent exposure in the first degree, possession of child pornography, or attempt, conspiracy, or solicitation to commit sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography, may be sentenced to a definite term of imprisonment of not more than 10 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a second felony conviction and does not involve circumstances described in (B) of this paragraph, two years;

(B) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, three years;

(C) if the offense is a third felony conviction and does not involve circumstances described in (D) of this paragraph, three years;

(D) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, six years.

(j) A defendant sentenced to a (1) mandatory term of imprisonment of 99 years under (a) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the mandatory term without consideration of good time earned under AS 33.20.010, or (2) definite term of imprisonment under (l) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving the greater of (A) one-half of the definite term or (B) 30 years. A defendant may not file and a court may not entertain more than one motion for modification or reduction of a sentence subject to this subsection, regardless of whether or not the court granted or denied a previous motion.

(k) A first felony offender convicted of an offense for which a presumptive term of imprisonment is not specified under this section

(1) may be sentenced to a term of unsuspended imprisonment that exceeds the presumptive term for a second or third felony offender convicted of the same crime if the offender is convicted of criminally negligent homicide and the victim is a child under the age of 16;

(2) except as provided in (1) of this subsection, may not be sentenced to a term of unsuspended imprisonment that exceeds the presumptive term for a second felony offender convicted of the same crime unless the court finds by clear and convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or that circumstances exist that would warrant a referral to the three-judge panel under AS 12.55.165.

(l) Notwithstanding any other provision of law, a defendant convicted of an unclassified or class A felony offense, and not subject to a mandatory 99-year sentence under (a) of this section, shall be sentenced to a definite term of imprisonment of at least 40 years but not more than 99 years when the defendant has been previously convicted of two or more most serious felonies and the prosecuting attorney has filed a notice of intent to seek a definite sentence under this subsection at the time the defendant was arraigned in superior court. If a defendant is sentenced to a definite term under this subsection,

(1) imprisonment for the prescribed definite term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed definite term may not be reduced, except as provided in (j) of this section.

(m) Notwithstanding (a)(4) and (f) of this section, if a court finds that imposition of a mandatory term of imprisonment of 99 years on a defendant subject to sentencing under (a)(4) of this section would be manifestly unjust, the court may sentence the defendant to a definite term of imprisonment otherwise permissible under (a) of this section. (§ 12 ch 166 SLA 1978; am § 18 ch 45 SLA 1982; am §§ 28 — 30 ch 143 SLA 1982; am § 8 ch 78

SLA 1983; am §§ 1 — 3 ch 92 SLA 1983; am § 5 ch 59 SLA 1988; am § 4 ch 37 SLA 1989; am §§ 23 — 25 ch 79 SLA 1992; am § 5 ch 3 SLA 1994; am §§ 1, 2, 6 ch 6 SLA 1996; am §§ 3 — 7 ch 7 SLA 1996; am § 8 ch 30 SLA 1996; am § 4 ch 33 SLA 1996; am §§ 9 — 11 ch 54 SLA 1999; am § 1 ch 65 SLA 1999; am §§ 1, 2 ch 49 SLA 2000; am § 4 ch 60 SLA 2002; am §§ 1 — 5 ch 90 SLA 2003; am § 5 ch 99 SLA 2004)

Cross references. — For classification of felonies and misdemeanors, see AS 11.81.250; for authorized fines, see AS 12.55.035; for reduction of sentence for good behavior, see AS 33.20.010; for effect of the enactment of (j) of this section on Alaska Rule of Criminal Procedure 35, see § 34, ch. 79, SLA 1992 in the Temporary and Special Acts; for findings related to the addition of subsection (l), see § 1, ch. 7, SLA 1996 in the Temporary and Special Acts; for the effect of amendments to (j) of this section made by ch. 7, SLA 1996 on Alaska Rule of Criminal Procedure 35, see § 20, ch. 7, SLA 1996 in the Temporary and Special Acts. For applicability provisions relating to the 1999 amendment of subsection (b) by § 9, ch. 54, SLA 1999, and relating to the 1999 amendment of subsections (c) and (k), see § 16, ch. 54, SLA 1999 in the 1999 Temporary & Special Acts. For applicability provisions relating to the 1999 amendment of subsection (b) by § 1, ch. 65, SLA 1999, see § 2, ch. 64, SLA 1999 in the 1999 Temporary & Special Acts. For applicability provisions relating to the 2000 amendment of subsection (a) by sec. 1, ch. 49, SLA 2000, and the addition of subsection (m) by sec. 2, ch. 49, SLA 2000, see sec. 3, ch. 49, SLA 2000 in the 2000 Temporary & Special Acts.

Effect of amendments. — The 1992 amendment, effective September 14, 1992, in subsection (a), added the second sentence and paragraphs (1) to (3); added the second sentence in subsection (h); and added subsections (j) and (k).

The 1994 amendment, effective May 30, 1994, inserted "conspiracy to commit murder in the first degree," in subsection (b).

The first 1996 amendment, effective June 27, 1996, substituted "correctional employee" for "correctional officer" in paragraphs (a)(1) and (c)(2) and repealed paragraphs (d)(3) and (e)(3).

The second 1996 amendment, effective June 27, 1996, in paragraphs (c)(4) and (i)(4), inserted "and the defendant is not subject to sentencing under (l) of this section"; in subsection (f), inserted "or mandatory" in paragraphs (1) and (2), and in paragraph (3), deleted "otherwise" preceding "reduced" and added ", except as provided in (j) of this section"; in (j), inserted "(1)," "once," and all of the language following "AS 33.20.010"; and added subsection (l).

The third 1996 amendment, effective May 16, 1996, inserted a section reference in subsection (g).

The fourth 1996 amendment, effective May 23, 1996, made a section reference substitution in paragraph (e)(4).

The first 1999 amendment, effective June 5, 1999, in subsection (b), inserted "solicitation to commit murder in the first degree" in the first sentence and added the third and fourth sentences; and added subparagraph (c)(2)(B), the subparagraph (c)(2)(A) designation, paragraph (k)(1), the paragraph (k)(2) designation, and "except as provided in (1) of this subsection" at the beginning of paragraph (k)(2).

The second 1999 amendment, effective September 20, 1999, in subsection (b) deleted "murder in the second degree," following "convicted of" in the first sentence and added the second sentence.

The 2000 amendment, effective August 9, 2000, added paragraph (a)(4) and made related stylistic changes, and added subsection (m).

The 2002 amendment, effective July 1, 2002, added subparagraph (c)(2)(C).

The 2003 amendment, effective September 11, 2003, added "Except as provided in (i) of this section" at the beginning of subsections (c)-(e); substituted "(e)(3)" for "(e)(4)" in subsection (g); rewrote subsection (i); and made stylistic changes.

The 2004 amendment, effective July 23, 2004, substituted "subsection" for "section" at the end of the introductory language of subsection (l).

Editor's notes. — Section 7, ch. 6, SLA 1996 provides that the repeal of (d)(3) and (e)(3) and the amendments to (a) and (c) of this section made by ch. 6, SLA 1996 apply "to all offenses committed on or after June 27, 1996." Section 19, ch. 7, SLA 1996 provides that references to prior or previous convictions in ch. 7, SLA 1996, which amended subsections (c), (f), (i), and (j) and added subsection (l), "apply to all convictions occurring before, on, or after June 27, 1996."

Subsection (b) was amended by § 9, ch. 54, SLA 1999, with an effective date of June 5, 1999, and was further amended by § 1, ch. 65, SLA 1999, with a later effective date of September 20, 1999. Thus, on and after June 5 and before September 20, 1999, subsection (b) read as follows: "A defendant convicted of murder in the second degree, attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adopted parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 — 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470."

Section 12(a), ch. 90, SLA 2003 provides that the provisions of §§ 1 — 5, ch. 90, SLA 2003 amending this section apply "to sentencings for offenses committed on or after September 11, 2003," and that "[all references to prior or previous convictions in [that section] apply to convictions occurring before, on, or after September 1, 2003."

- I. General Consideration.
- II. Sentencing.
 - A. In General.
 - B. Specific Crimes.
- III. Presumptive Sentencing
 - A. In General.
 - B. First Offenders.

I. GENERAL CON

Constitutionality of 1982 ter 143, SLA 1982, which do not violate the Alaska Const § 14. *Galbraith v. State*, 693 1985).

Applied in Faulkenberry (Alaska Ct. App. 1982); *Stat* (Alaska Ct. App. 1982); *Qual* (Alaska Ct. App. 1982); *Willis* (Alaska Ct. App. 1982); *Conn* (Alaska Ct. App. 1982); *Sean* (Alaska Ct. App. 1982); *Hardl* (Alaska Ct. App. 1982); *Griffi* (Alaska Ct. App. 1982); *Nix* (Alaska Ct. App. 1982); *Dunn* (Alaska Ct. App. 1982); *Stat* 1060 (Alaska Ct. App. 1982); 1196 (Alaska Ct. App. 1982); 1199 (Alaska Ct. App. 1982); 1324 (Alaska Ct. App. 1983) P.2d 621 (Alaska Ct. App. 19 P.2d 184 (Alaska 1983); *Con* 654 (Alaska Ct. App. 1984); (662 (Alaska Ct. App. 1984); 912 (Alaska Ct. App. 1984); 415 (Alaska Ct. App. 1984); P.2d 1093 (Alaska Ct. App. 1 P.2d 737 (Alaska Ct. App. 19 P.2d 1061 (Alaska Ct. App. 1 693 P.2d 887 (Alaska Ct. App 698 P.2d 1230 (Alaska Ct. A 702 P.2d 651 (Alaska Ct. App. 730 P.2d 161 (Alaska Ct. App. P.2d 695 (Alaska Ct. App. 198 P.2d 1164 (Alaska Ct. App. 1 P.2d 1198 (Alaska Ct. App. 1 715 P.2d 269 (Alaska Ct. App. 739 P.2d 769 (Alaska Ct. Ap 759 P.2d 541 (Alaska Ct. App 771 P.2d 448 (Alaska Ct. App 770 P.2d 296 (Alaska Ct. App. P.2d 599 (Alaska Ct. App. 198 P.2d 377 (Alaska Ct. App. 19 P.2d 1258 (Alaska Ct. App. 15 P.2d 33 (Alaska Ct. App. 1990 P.2d 677 (Alaska Ct. App. 15 807 P.2d 506 (Alaska Ct. App 808 P.2d 280 (Alaska Ct. App 826 P.2d 775 (Alaska Ct. App. 829 P.2d 1191 (Alaska Ct. App 837 P.2d 130 (Alaska Ct. App. P.2d 1244 (Alaska Ct. App. 19 P.2d 1347 (Alaska Ct. App. 19 P.2d 298 (Alaska Ct. App. 199 P.2d 1319 (Alaska Ct. App. 199 P.2d 517 (Alaska Ct. App. 199 P.2d 1335 (Alaska Ct. App. 199 P.2d 1208 (Alaska Ct. App. 19

HB

14

State Plan for Foster Care and Adoption Assistance

SEC. 471. [42 U.S.C. 671] (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which--

(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this title or under titles I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

TITLE 45--PUBLIC WELFARE CHAPTER XIII--OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES PART 1355--GENERAL--Table of Contents

Sec. 1355.21 State plan requirements for titles IV-E and IV-B. (a) The State plans for titles IV-E and IV-B must provide for safeguards on the use and disclosure of information which meet the requirements contained in section 471(a)(8) of the Act.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
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Representative Norman Rokeberg

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MEMORANDUM

To: Representative Lesil McGuire, Chairwoman
House Judiciary Committee

From: Representative Norman Rokeberg *hnrbyhmn*

Date: April 6, 2005

Re: CSHB 14(HES)

I respectfully request that HB 14, Disclosures by Foster Parents, be scheduled for a hearing. I have attached the following for your information:

1. CSHB 14(HES)
2. HB 14
3. Sponsor Statement
4. Sectional Analysis
5. Fiscal Note
6. Letter from Office of Children's Services with attachments

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

website: <http://www.3krepublicans.org/tok:berg/index.php>



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ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SPONSOR STATEMENT FOR CSHB 14(HES)

By: Representative Norman Rokeberg

Title: An Act relating to disclosure of information about a child to a legislator or a member of a legislator's staff; and making conforming changes.

It has been brought to my attention that foster parents are not afforded the same opportunities as parents or legal guardians when discussing confidential matters with legislators. In fact, foster parents are not permitted to discuss ANY confidential matters with legislators.

For example, a foster family is having problems getting reimbursed from the Office of Children's Services (OCS) for a school trip. If the family were to call a legislator's office to get help with the reimbursement, they would not be allowed to provide the name of the child or any confidential information that would help the legislator when communicating with OCS. So the legislator then must contact OCS on the foster parent's behalf with very little information that could help put OCS in the right direction to solving the problem.

I have introduced HB 14 because often a legislator is a foster parent's last line of defense when trying to obtain services or care for a foster child, or if the foster parent is in a disagreement with the Office of Children's Services (OCS). It is important that foster parents be allowed to communicate with their legislator or a member of the legislator's staff.

I urge your support of this legislation.

ED 2: 4/5/05

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

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LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
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Representative Norman Rokeberg

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SECTIONAL ANALYSIS FOR CSHB 14 (HES)

By: Representative Norman Rokeberg

Title: An Act relating to disclosure of information about a child to a legislator or a member of a legislator's staff; and making conforming changes.

Section 1: Amends the Child in Need of Aid statute AS 47.10.092(a)(1) by allowing a parent or legal guardian to disclose confidential or privileged information to "a member of a legislator's staff."

Amends AS 47.10.092(a)(2) by permitting a foster parent to disclose confidential or privileged information to a legislator or a member of a legislator's staff. The legislator or staff member is then allowed to disclose appropriate information to a governmental agency as necessary to assist the foster parents.

Amends AS 47.10.092(a)(3) & (4) by adding language to conform to the above sections.

Section 2: Adds "foster parents" to AS 47.10.092(b).

Section 3: Mirrors the provisions of Section 1 in the Delinquent Minors' chapter.

Section 4: Adds "foster parents" to AS 47.12.320(b).

ED 2: 4/5/05

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF CHILDREN'S SERVICES

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110630
JUNEAU, ALASKA 99811-0630
PHONE: (907) 465-3170

JUL 16 2004

July 13, 2004

Honorable Representative Norman Rokeberg
716 W 4th Ave Ste 300
Anchorage, AK 99501-2133

Dear Representative Rokeberg:

It has come to our attention that some of your constituents, who are clients of the Office of Children's Services (OCS), or foster parents for OCS, have complained that OCS staff are attempting to dissuade them from expressing their concerns to legislative members. I am writing today to assure you that I have reminded our staff that this type of action would be inappropriate. (Please see the enclosed memo.)

As you know, AS 47.10.092 permits a parent or legal guardian of a child subject to children in need of aid proceedings to disclose confidential or privileged information about the child, or the child's family, to a legislator for review or use in their official capacities. I have reminded our staff about this provision. However, this statute, does not apply to foster parents. It is possible that OCS staff may have cautioned foster parents about the fact that this statutory disclosure provision does not apply to them. .

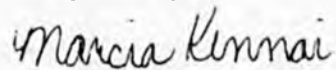
Any parent or legal guardian who chooses to disclose information to a legislator is acting in accordance with the law. However, the law does not extend the same rights of disclosure to other family members or the child's foster parents. Foster parents do receive training on confidentiality issues. They are in jeopardy of a foster care licensing infraction if they violate the confidentiality of a foster child or the foster child's family.

While I believe it is usually in a child's best interests to resolve disputes informally, and at the local level, please note that formal grievance procedures are available to the parents, legal guardians and foster parents involved with the OCS. These parties may seek resolution to their complaints in accordance with 7 AAC 54.205 – 54.240. I have enclosed a copy of the Administrative Code and the OCS Complaint form for your review. Additionally, foster parents may appeal negative foster care licensing actions by requesting an administrative hearing in accordance with AS 47.35.800.

Letter to All Legislators
July 13, 2004
Page 2

As a legislator, your relationship with the OCS and your representation of the children and families involved in the child protection system is very important. Thank you for your dedication and commitment to making a difference in the lives of so many Alaskans. If you have further questions, please feel free to contact me at (907)465-3191.

Respectfully,



Marcia Kennai
Deputy Commissioner

Enclosures

CC: Commissioner Gilbertson
Sherry Hill

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF CHILDREN'S SERVICES

Program Instruction: 05-01

Issue Date: July 13, 2004

From: Marcia Kennai, Deputy Commissioner *mk*

Subject: Clarification of procedures related to client contact with legislators

On a number of occasions, I have received reports that OCS staff have cautioned OCS clients against pursuing grievances with their local legislators. Although I believe the majority of these reports relate to staff who are trying to explain the confidentiality laws to foster parents and those persons considered non-parties to a child protection cases, a reminder and some direction on this topic seems appropriate at this time.

Alaska Statute 47.10.092 states that the parent or legal guardian of a child subject to a child in need of aid proceeding may disclose confidential or privileged information about the child, or the child's family, to a legislator for review or use in their official capacities. Any parent or legal guardian who chooses to disclose information to a legislator is acting in accordance with the law.

OCS staff should never attempt to dissuade a client from exercising this right, nor should any OCS staff respond with negative words or actions after learning that the client has already initiated legislative contact. It is within a client's right to contact that legislator and the only acceptable OCS response is to acknowledge that right.

Even though the law does not extend the same rights of disclosure to other family members or the child's foster parents, OCS staff should never admonish these persons for contacting a legislative office. If you believe that a foster parent or provider is breaching the confidentiality of a foster child or the foster child's family, please report this information to your Licensing Unit.

If you are contacted by a legislative office on the behalf of anyone other than the child's parent or legal guardian, do not disclose confidential or privileged information. Please 1) cite AS 47.10.092 as your reason for not disclosing; and 2) use the opportunity to help the legislator or legislative staff to respond to their constituents concerns by discussing OCS child protection policy and procedure in general terms, leaving the specifics of the child and child's family out of your discussion; or 3) refer legislative personnel to your supervisor; or 4) refer legislative personnel to Mike Lesmann in Central Office.

Thank you for your attention to this matter and thank you for your service to the children and families of Alaska.

C: Joel Gilbertson, Commissioner

ALASKA ADMINISTRATIVE CODE

TITLE 7 HEALTH AND SOCIAL SERVICES

ARTICLE 02 GRIEVANCE PROCEDURE

Section:

- 205. Purpose
- 210. Applicability and exemption
- 220. Procedure: informal meeting
- 230. Panel review
- 240. Resolution

7 AAC 54.205 PURPOSE. The purpose of the grievance procedure in 7 AAC 54.205 - 7 AAC 54.240 is to provide an informal dispute resolution process by which individuals and division staff involved in a dispute can voice their concerns and reach a fair resolution agreeable to all. (Eff. 5/4/90, Register 114)

Authority: AS 47.05.010 AS 47.14.010 -

7 AAC 54.210 APPLICABILITY AND EXEMPTION. (a) 7 AAC 54.210 - 7 AAC 54. describe how individuals can present grievances to the division concerning division procedures or services.

(b) An aggrieved individual may file a grievance on the following grounds:

- (1) the application of a division policy or procedure;
- (2) an action or failure to act by the division; or
- (3) division action under AS 47.35 short of the denial, involuntary conditioning, suspension, or revocation of a license; an aggrieved individual may file a grievance on a division licensing investigation only after the investigation is complete.

(c) The grievance procedure is not available

- (1) to a resident of a state-operated juvenile correctional facility or juvenile detention facility for which procedures developed by the superintendent under 7 AAC 52.095 apply;
- (2) to a state employee unless the employee is also a client of the division, a client's parent or guardian, or a service provider for the division;
- (3) for contract or agreement for services disputes;
- (4) to appeal late payments or to contest rates paid;
- (5) to complain of child placement or removal decisions of the division as a result of intervention under AS 47.10;
- (6) to complain of a denial, involuntary conditioning, suspension, or revocation of a license for which an appeal is available under AS 44.62;
- (7) to appeal a decision regarding grant programs for which an appeal is available under 7 AAC 78.310 ; and

(8) to appeal a decision regarding civil rights actions covered under the department's civil rights complaint procedures. (Eff. 5/4/90, Register 114; am 1/14/2000, Register 153)

Authority: AS 47.05.010 AS 47.14.010 -

7 AAC 54.220 PROCEDURE: INFORMAL MEETING. (a) An aggrieved individual shall submit a written complaint, on a form provided by the division, stating the specific concern and stating the desired relief sought. The aggrieved individual shall submit the complaint to the supervisor of the person whose actions are being grieved. The supervisor will provide a copy of the procedures in 7 AAC 54.210 - 7 AAC 54.240 to the aggrieved individual. Within three working days after receiving the complaint, the supervisor will determine

- (1) the nature of the complaint;
- (2) whether the action or inaction of the division is part of the complaint and, if so, the specific actions or inactions alleged as the basis of the complaint; and
- (3) whether use of the grievance procedure in 7 AAC 54.210 - 7 AAC 54.240 is applicable.

(b) If the supervisor determines that the grievance procedure in 7 AAC 54.210 - 7 AAC 54.240 is not applicable, the supervisor will notify the complainant and the regional administrator in writing of the reasons why the grievance procedure does not apply and what other course of action the complainant may pursue. The complainant may appeal to the regional administrator a supervisor's decision that the grievance procedure does not apply. If the regional administrator made the initial decision, the complainant may appeal to the director.

(c) A foster parent may submit a stop removal request to the regional administrator that a child not be removed from the foster home during grievance procedure action; however, it is within the division's authority to make the decision. The regional administrator will consider a stop removal request made by a foster parent unless the intended removal plan is a result of an allegation of abuse or neglect in the foster home, or a court order.

(d) If the complaint involves an action of a division staff member who is directly supervised by the regional administrator, the complainant shall file the written complaint with the regional administrator. The regional administrator will make a recommendation to the director.

(e) If the supervisor determines that the grievance should be processed under the procedure in 7 AAC 54.210 - 7 AAC 54.240, the supervisor will contact the complainant to schedule an informal meeting with the complainant and the involved division staff. The supervisor will schedule the informal meeting to be held within 10 working days after receipt of the complaint by the supervisor, unless one or more of the individuals entitled to participate is unable to attend for good cause within that period. The person unable to attend shall submit the reasons in writing, and the supervisor will schedule the meeting to be held within five calendar days after the day the person becomes available to attend.

(f) The supervisor will conduct the meeting in an informal manner. Each individual will be permitted to state his or her understanding of the facts at issue in the complaint and suggestions for resolution. Upon the agreement of the parties, the supervisor will, in his or her discretion, use teleconferencing to conduct the informal meeting. If more than one grievance is filed, the supervisor may schedule more than one informal meeting or may consolidate the grievances. If

more than one informal meeting is necessary, the supervisor will schedule subsequent meetings to be held as soon as possible.

(g) The provisions of 7 AAC 54.010 - 7 AAC 54.150 and 7 AAC 54.900 regarding confidentiality of information on clients apply to the grievance procedure in 7 AAC 54.210 - 7 AAC 54.240.

(h) At the conclusion of the informal meeting the supervisor will complete a grievance procedure meeting summary form including what action, if any, was or will be taken. The supervisor and parties involved shall sign and receive a copy of the completed grievance procedure meeting summary form. Signature on the form indicates agreement with the summary of the meeting as described on the form.

(i) If a resolution is not agreed upon in the meeting, the supervisor will, within five working days after the final informal meeting, complete a written statement of the supervisor's proposed resolution and mail it to all parties. The supervisor will include the grounds for the complaint, a statement of the facts, actions taken or planned to resolve the complaint, a statement of the right to request a review of the supervisor's proposed resolution by a regional appeal panel appointed by the division director, and the name and office address of the regional manager or administrator. The supervisor will also inform the complainant of the right to include a statement for the regional appeal panel's review.

(j) The complainant may accept the supervisor's proposed resolution or may request a regional appeal panel review. A complainant who requests a regional appeal panel review shall submit the request in writing to the regional administrator within 15 working days after receipt of the supervisor's proposed resolution.

(k) The division will, in its discretion, grant a waiver of the procedures in this section if the division determines that a waiver will result in the division's ability to reach a more informed decision. (Eff. 5/4/90, Register 114; am 11/16/94, Register 132)

Authority: AS 47.05.010 AS 47.14.010 -

7 AAC 54.230 PANEL REVIEW. (a) A regional appeal panel consists of a regional administrator or designee; a social worker V or a probation officer IV; and a private citizen having expertise in the provision or administration of human services programs. A program specialist from the division's state or regional office may be selected by the regional administrator to serve on the panel in place of the regional administrator, the social worker V, or the probation officer IV.

(b) Following receipt of a request for a panel review, the regional administrator will ensure that as soon as possible but within 21 working days a regional appeal panel has been appointed and that each panel member has received a copy of the complainant's grievance file.

(c) Upon the agreement of the panel members, the panel may use teleconferencing to conduct the review of the case.

(d) Within 10 working days after receiving the complainant's grievance file, panel members will review the grievance file and conduct a fact-finding meeting. If the complainant chooses to appear before the panel during the fact-finding meeting, involved division staff may also attend. The panel may also ask for information from additional sources, in which case the complainant

and any involved division staff member will be allowed to review the additional information and to supplement the record with additional information. If the complainant or an involved division staff member is unable to be present during the fact-finding meeting, the individual shall advise the panel in writing of the reasons the individual is unable to be present and give a date when the individual will be available. The panel will reschedule the fact-finding meeting to be held within five working days after the day the individual becomes available.

(e) The panel will hold a deliberation meeting within five working days after the fact-finding meeting under (d) of this section. The deliberation meeting may immediately follow the fact-finding meeting. The complainant and involved division staff may not attend the deliberation.

(f) The panel will issue a written report of findings, recommendations, and proposed resolution to the director within 10 working days after the deliberation meeting under (e) of this section. The panel will send a copy of the report to all parties involved.

(g) The division will, in its discretion, grant a waiver of the procedures in this section if the division determines that a waiver will result in the division's ability to reach a more informed decision. (Eff. 5/4/90, Register 114; am 11/12/94, Register 132)

Authority: AS 47.05.010 AS 47.14.010 -

7 AAC 54.240 RESOLUTION. Within 15 working days after receipt of the written report of the regional appeal panel, the director will issue a final written resolution. The director will mail a copy of the final resolution to the parties involved in the dispute. (Eff. 5/4/90, Register 114)

Authority: AS 47.05.010 AS 47.14.010 -

ARTICLE 04 GENERAL PROVISIONS

7 AAC 54.900 DEFINITIONS. (a) In this chapter

(1) "aggrieved individual" means a client, a client's parent or guardian, or a provider of services of the division;

(2) "child" means an individual under 18 years of age, and an individual 18 or 19 years of age who is a ward of the state;

(3) "complainant" means an aggrieved individual who has filed a complaint with a supervisor or the director;

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

(5) "director" means the director of the division of family and youth services, or the director of the division of juvenile justice, as appropriate in accordance with 7 AAC 54.010 and 7 AAC 54.300, in the department;

(6) "division" means the division of family and youth services or the division of juvenile justice, as appropriate in accordance with 7 AAC 54.010 and 7 AAC 54.300, in the department;

(7) "probation officer IV" means a division employee responsible for regional supervision of juvenile probation services;

(8) "regional administrator" means the division employee who has responsibility and authority for actions of the division in a region of the state;

(9) "social worker V" means a division employee responsible for regional supervision of family services;

(10) "state office" means the headquarters office of the division;

(11) "supervisor" means the division employee who has responsibility and authority for the administration of a work unit; in the case of a complaint involving a facility, "supervisor" means the division employee, usually a superintendent, who has the overall responsibility and authority to administer the operations of the entire facility.

(b) In AS 47.12.310 and this chapter, "appropriate information" includes the name of the juvenile and other information that the department considers appropriate upon consideration of the welfare of the juvenile and the safety of the community. (Eff. 5/15/83, Register 86; am 5/4/90, Register 114; am 11/16/94, Register 132; am 1/14/2000, Register 153)

Authority:	AS 47.05.010	AS 47.05.015	AS 47.05.020
	AS 47.05.030	AS 47.05.040	AS 47.10.090
	AS 47.12.310	AS 47.14.010	AS 47.17.040
	AS 47.35.039		

COMPLAINT
(Under Grievance Procedures)

A written statement is to be completed by the aggrieved individual and submitted to the Supervisor of the person whose actions are being grieved or to the Children's Services Manager, if the complaint is against a person directly supervised by the Children's Services Manager.

Today's Date: ___/___/___

Date Incident Occurred or Complaint Originated: ___/___/___

Who are all the persons involved in the situation?

Name	Address	Phone
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Statement of Complaint: _____

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 14(HES)
 (H) Publish Date: 4/6/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title DISCLOSURE OF INFORMATION TO LEGISLATORS OR LEGISLATIVE STAFF

RDU Children's Services

Component Front Line Social Workers

Sponsor ROKEBERG

Requester HOUSE (HES)

Component No. 2305

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						
TOTAL OPERATING	*	*	*	*	*	*
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
1007 Inter-Agency Receipts						
Other(Specify Type-do not abbreviate)						
TOTAL	*	*	*	*	*	*

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)

If HB14 becomes law, we anticipate the number of inquiries will increase, but lack a solid methodology to calculate the potential increase. The department is submitting a indeterminate fiscal note at this time.

HB 14 proposes to allow foster parents of children in department custody to disclose privileged and confidential information regarding a child and/or a child's family to a legislator and/or a member of a legislator's staff. There are more than 1,000 licensed foster homes and up to 2,000 children placed in out-of-home care. The OCS now receives

Prepared by: Tammy Sandoval, Acting Deputy Commissioner
 Division Office of Children's Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-3191
 Date/Time 03/30/2005
 Date 03/30/2005

FISCAL NOTE
FN # 1

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSHB 14(HES)

ANALYSIS CONTINUATION

approximately 840 inquiries annually, it could be assumed that inquiries are being made on more than 40% of the children placed. Responses may include the need for case research and review, additional inquiries, documentation of the inquiry, and a written response. Any potential increase in workload is of concern with caseloads that exceed national standards by as much as 37%.