

substituted "domestic partner" for "spousal equivalent" in subsection (g).

Opinions of attorney general. — Requiring an attorney who is a public official to disclose the names

of clients, including the clients of the firm, is valid and legally supportable; and disclosure of such names does not violate any constitutional or professional privileges. February 15, 1985 Op. Att'y Gen.

NOTES TO DECISIONS

To determine the validity of the disclosure provisions of the Conflict of Interest law, both the nature and the extent of the privacy invasion and the strength of the state interest requiring disclosure must be considered. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Certain types of information communicated in the context of the physician-patient relationship fall within a constitutionally-protected zone of privacy. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Patient of a physician is a client for medical services and falls within the scope of this chapter. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

And source of income. — The Conflict of Interest law encompasses a physician's individual patients as sources of income. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Reporting individual names of physician's patients. — Until appropriate regulations are promulgated, the Conflict of Interest law may not be applied so as to require reporting the names of individual

patients of a physician. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Substantial compliance. — In an election contest, where the record showed that appellee candidate failed to disclose all of his assets under AS 39.50.030(b), judgment for the candidate was affirmed because substantial compliance was the appropriate standard for imposing the forfeiture remedy of AS 39.50.060(b) and the superior court did not clearly err in finding that the candidate substantially complied with the disclosure requirements of AS 39.50.030(b). *Grimm v. Wagoner*, 77 P.3d 423 (Alaska 2003).

Alaska Supreme Court reads "accurate representation" in AS 39.50.030(a) as not precluding a substantial compliance standard for enforcement of AS 39.50.060(b); thus, a candidate can comply with AS 39.50.030(a) for the purposes of AS 39.50.060(b) without strictly complying with the substantive disclosure requirements. *Grimm v. Wagoner*, 77 P.3d 423 (Alaska 2003).

Applied in *Warren v. Thomas*, 568 P.2d 400 (Alaska 1977).

Sec. 39.50.035. Exemptions. A person subject to this chapter is not exempt from any of its provisions except to the extent state courts determine that legally privileged professional relationships preclude complete compliance. (§ 5 ch 25 SLA 1975)

NOTES TO DECISIONS

This section applies only to legal privileges, not ethical mandates. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Fact that a physician is subject to professional

discipline for revealing the names of patients does not create a "legal privilege." *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Sec. 39.50.040. Blind trusts. (a) A public official may transfer all or a portion of the official's assets to a blind trust for the duration of service in public office. The original assets placed in the blind trust shall be listed by the official in the statement required to be filed under this chapter. The instrument creating the blind trust must be included with the statement.

(b) For a trust to qualify under this section,

- (1) assets transferred to the trust shall be marketable;
- (2) the trustee shall be a bank or other institutional fiduciary;
- (3) the trustee shall have full authority to manage the trust, including the purchase, sale, and exchange of its assets in accordance with fiduciary principles;
- (4) information regarding the identity and the nature of its assets shall be confidential from the trustor for the duration of the trust;
- (5) the trustee shall be required to report any known breach of confidentiality or the termination of the trust to the office where the trustor is required to file statements under this chapter; and
- (6) [Repealed, § 26 ch 25 SLA 1975.] (1974 Initiative Proposal No. 2. § 1; am §§ 6, 26 ch 25 SLA 1975)

NOTES TO DECISIONS

Cited in *Warren v. Thomas*, 568 P.2d 400 (Alaska 1977).

Sec. 39.50.050. Administration and inspection. (a) The Alaska Public Offices Commission created under AS 15.13.020(a) shall administer the provisions of this chapter. The commission shall prepare and keep available for distribution standardized forms on which the reports required by this chapter shall be filed. The commission shall print the forms provided under this section so that the front and back of each page have the same orientation when the page is rotated on the vertical axis of the page. The commission may request that the information required under this chapter be submitted electronically but shall accept any information required under this chapter that is typed in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission and that is filed with the commission.

(b) The commission shall adopt regulations to implement and interpret the provisions of this chapter. Regulations or interpretation shall be within the intent and purpose of this chapter and are subject to judicial review under the Administrative Procedure Act (AS 44.62).

(c) Reports filed under this chapter shall be kept on file for at least six years and are public records.

(d) [*Repealed, § 35 ch 126 SLA 1994.*] (1974 Initiative Proposal No. 2, § 1; am §§ 7, 8 ch 25 SLA 1975; am § 7 ch 167 SLA 1976; am § 35 ch 126 SLA 1994; am § 36 ch 108 SLA 2003; am § 4 ch 155 SLA 2004)

Effect of amendments. — The 1994 amendment, effective July 1, 1994, repealed subsection (d), relating to the procedures required to facilitate the filing of reports under AS 24.45.

The 2003 amendment, effective September 14, 2003, in subsection (a) added the last sentence and made a stylistic change.

The 2004 amendment, effective October 1, 2004, rewrote subsection (a).

Opinions of attorney general. — The commis-

sion's power to investigate violations of AS 39.50.090 derives from AS 39.50.050, which authorizes the commission to administer AS 39.50 and promulgate regulations to implement the chapter. In carrying out this responsibility, the commission staff should immediately notify the chief prosecutor whenever commission records, files, and inquiries reveal a possible criminal violation of AS 39.50.090. November 26, 1984 Op. Att'y Gen.

NOTES TO DECISIONS

This section requires the commission to promulgate regulations to implement and interpret the provisions of the Conflict of Interest law. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Scope of regulations. — The commission may

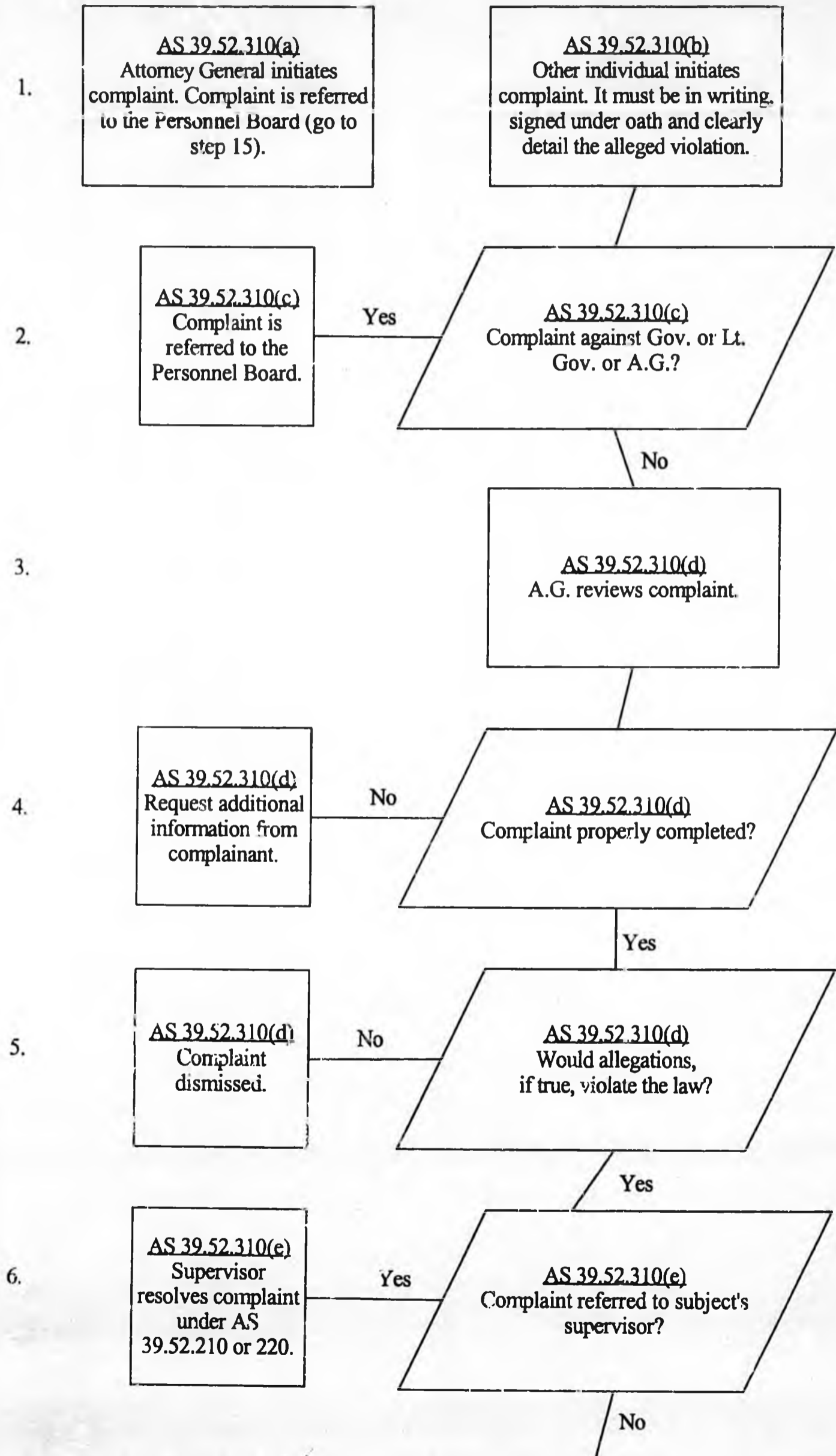
well wish to promulgate regulations which apply to relationships other than that of physician-patient. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Quoted in *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

Sec. 39.50.060. Penalty for wilful violation of disclosure requirements. (a) A person required to file a report of financial or business interests under this chapter who refuses or knowingly fails to disclose required information within the time required in this chapter, or who provides false or misleading information, knowing it to be false or misleading, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for a period of not more than six months, or by both.

(b) Any person failing or refusing to comply with the requirements of this chapter, in addition to the penalties prescribed, shall forfeit nomination to office and may not be seated or installed in office if the person has not complied. Nominated, hired, or appointed officials, commissioners, chairs, or members of commissions or boards specified in AS 39.50.200(b) may not be confirmed by the legislature if compliance has not been made. In

Alaska Executive Branch Ethics Complaint Process



7.

AS 39.52.310(f)
A.G. provides subject a copy of the complaint for a response to be made within 20 days.

8.

AS 39.52.310(f)
May be considered an admission of violation.

No

AS 39.52.310(f)
Subject responds to complaint within time allotted?

Yes

9.

AS 39.52.310(g)
A.G. investigates the complaint.

10.

AS 39.52.310(i)
Investigation or proceeding may be terminated.

Yes

AS 39.52.310(i)
Complainant unwilling to assist? Complaint withdrawn? Subject makes restitution?

No

11.

AS 39.52.320
Complaint dismissed.

No

AS 39.52.320
Does investigation result in a finding of probable cause?

Yes

12.

AS 39.52.350(a)
A.G. serves a copy of accusation on the subject setting out the alleged violation. All proceedings are now open to the public.

13.

AS 39.52.350(b)
Subject of the complaint files an answer with the A.G. within 20 days.

14.

AS 39.52.350(b)
May be considered an admission of violation.

No

AS 39.52.350(b)
Subject responds to complaint within time allotted?

Yes

15.

AS 39.52.350(c & d)
A.G. refers the matter to the Personnel Board.

16.

AS 39.52.350(d)
Personnel Board imposes penalties.

No

AS 39.52.350(c)
Does the subject deny occurrence of violation?

Yes

17.

AS 39.52.350(c)
Personnel Board appoints a hearing officer to conduct a hearing.

18.

AS 39.52.360(a - g)
Hearing officer hears complaint.

19.

AS 39.52.360(b)
Hearing officer provides the Personnel Board a written report within 30 days after conclusion of hearing.

20.

AS 39.52.370(a)
Within 10 days after receipt of report either party may protest hearing officer's findings and recommendation. Personnel Board hears any protest.

21.

AS 39.52.370(b - e)
The Board can adopt or amend the hearing officer's report. The Personnel Board may hold its own hearing. Deliberations are closed to the public.

22.

AS 39.52.370(d)
The Personnel Board issues a written order of dismissal.

No

AS 39.52.370(d)
Did the Personnel Board determine the occurrence of a violation?

Yes

23.

AS 39.52.370(d)
The Personnel Board may impose penalties under AS 39.52.410, 39.52.440 and 39.52.450 as appropriate.

24.

AS 39.52.370(f)
The subject of the accusation may appeal the Personnel Board's decision to the Superior Court.

SB

2000

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 5/10/05

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered SENATE BILL NO. 200

SB 200 USE OF FORCE TO PROTECT SELF/HOME

"An Act relating to defense of self, other persons, and property."

and recommends:

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

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

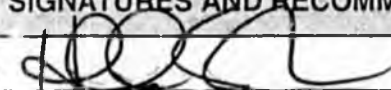
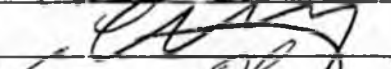
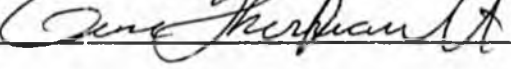
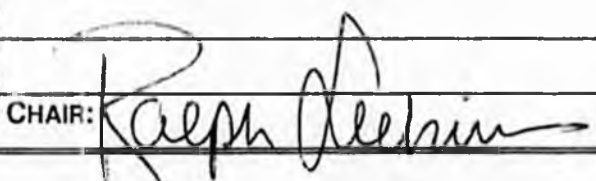
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			X	
	X			
	X			
CHAIR: 	✓			

Changes in the CS for SB 200

Senate Judiciary / Senator Ralph Seekins – Chair

Section 1.

Makes it clear that peace officers and other emergency service personnel are exempt from the act.

Section 2.

AS 11.81.330 is re-written affirmatively concerning the use of force for self defense (instead of “the defense justification”)

Creates an exception for those not authorized to use force under (a) (1) – (3) of the section if the person has withdrawn from an encounter and effectively communicated the withdrawal to the other person, but the other person persists in continuing the incident by the use of unlawful force.

Section 3.

Changes terminology to “use of deadly force in self defense” and removes the reference to non-deadly force justified under AS 11.81.330 so that the section reads in the affirmative rather than conditional as presently in the statutes.

Lists all the conditions that prevent a person from using deadly force (a) (1 - 4) including clarifying prohibition against on or off duty peace officers.

(b) Allows the option of retreat conditioned upon the person being attacked knows that with complete personal safety for themselves or others being defended they can leave the area of the encounter with the exceptions listed under (b) (1 - 4).

Section 4.

Clarifies the use of force in the affirmative for defending third parties.

Section 5.

Expands the right to use force to not only the owner or person in possession or control of any premises to a guest of that person.

Section 6.

Clarifies the application of the law in the case of car carjacking. Defines the term carjacking and the term motor vehicle as used in AS 28.40.100., an aircraft or watercraft.

Adapted

24-LS1025Y

Luckhaupt

2/1/06

CS FOR SENATE BILL NO. 200()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): SENATORS THERRIAULT, Dyson, Huggins

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to defense of self, other persons, property, or services."**

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

3 *** Section 1. AS 09.65 is amended by adding a new section to read:**

4 **Sec. 09.65.330. Immunity: Use of defensive force.** (a) A person who uses
5 force in defense of self, other persons, or property as permitted in AS 11.81 is not
6 liable for the death of or injury to the person against whom the force was intended to
7 be used, unless the person against whom force was used was a

8 (1) peace officer, whether on or off duty, who was engaged in the
9 performance of official duties; or

10 (2) fire fighter, emergency medical technician, or paramedic engaged
11 in the performance of official duties.

12 (b) The court shall award reasonable attorney fees, court costs, compensation
13 for loss of income, and all expenses incurred by the defendant in defense of a civil
14 action brought by a plaintiff if the court finds that the defendant is not liable under (a)
15 of this section.

* Sec. 2. AS 11.81.330 is amended to read:

Sec. 11.81.330. Justification: Use of nondeadly force in defense of self. (a)

A person is justified in using [MAY USE] nondeadly force upon another when and to the extent the person reasonably believes it is necessary for self-defense [SELF DEFENSE] against what the person reasonably believes to be the use of unlawful force by the other person, unless

(1) the person used the force in [INVOLVED WAS THE PRODUCT OF] mutual combat not authorized by law;

(2) the person claiming self-defense [THE DEFENSE OF JUSTIFICATION] provoked the other's conduct with intent to cause physical injury to the other;

(3) the person claiming self-defense [THE DEFENSE OF JUSTIFICATION] was the initial aggressor; [OR]

(4) the force used [APPLIED] was the result of using a deadly weapon or dangerous instrument the person claiming self-defense [THE DEFENSE OF JUSTIFICATION] possessed while

(A) acting alone or with others to further a felony criminal objective of the person or one or more other persons; or

(B) a participant in a felony transaction or purported transaction or in immediate flight from a felony transaction or purported transaction in violation of AS 11.71;

(C) acting alone or with others with intent to establish or maintain control over a geographic area or neighborhood, or in response to perceived conduct by a rival or perceived rival, or a member or perceived member of a rival group, for control over the area, if the person using deadly force, or the group on whose behalf the person is acting, has a history or reputation for violence among civilians; or

(D) if the weapon used by the person was a firearm that was illegal under state or federal law for the person to possess.

(b) A [IN CIRCUMSTANCES DESCRIBED IN (a)(1) - (a)(3) OF THIS SECTION, THE] person who is not justified in using force in self-defense in the

*Cancelled
Amended
Adopted*

Limiting language -> to protect convicted of felons

1 circumstances listed in (a)(1) - (3) of this section is justified in using [CLAIMING
 2 THE DEFENSE OF JUSTIFICATION MAY USE NONDEADLY] force in self-
 3 defense if that person has withdrawn from the encounter and effectively
 4 communicated the withdrawal to the other person, but the other person persists in
 5 continuing the incident by the use of unlawful force.

6 * Sec. 3. AS 11.81.335 is amended to read:

7 **Sec. 11.81.335. Justification: Use of deadly force in defense of self.** (a)
 8 Except as provided in (b) of this section, a person who is justified in using
 9 nondeadly force in self-defense under AS 11.81.330 may use deadly force in self-
 10 defense upon another person when and to the extent

11 [(1) THE USE OF NONDEADLY FORCE IS JUSTIFIED UNDER
 12 AS 11.81.330; AND

13 (2)] the person reasonably believes the use of deadly force is necessary
 14 for self-defense [SELF DEFENSE] against death, serious physical injury, kidnapping,
 15 sexual assault in the first degree, sexual assault in the second degree, sexual abuse of
 16 a minor in the first degree, or robbery in any degree.

17 (b) A person may not use deadly force under this section if the person knows
 18 that, with complete personal safety and with complete safety as to others being
 19 defended, the person can avoid the necessity of using deadly force by leaving the
 20 area of the encounter [RETREATING], except there is no duty to leave the area
 21 [RETREAT] if the person is

22 (1) on premises

23 (A) that [WHICH] the person owns or leases;

24 (B) where the person resides, temporarily or permanently;

25 or

26 (C) as a guest or express or implied agent of the owner,
 27 lessor, or resident [AND THE PERSON IS NOT THE INITIAL
 28 AGGRESSOR]; [OR]

29 (2) a peace officer acting within the scope and authority of the officer's
 30 employment or a person assisting a peace officer under AS 11.81.380;

31 (3) in a building where the person works in the ordinary course of

1 the person's employment; or

2 (4) protecting a child or a member of the person's household.

3 * Sec. 4. AS 11.81.340 is amended to read:

4 **Sec. 11.81.340. Justification: Use of force in defense of a third person.** A
5 person is justified in using [MAY USE] force upon another when and to the extent
6 the person reasonably believes it is necessary to defend a third person when, under the
7 circumstances as the person claiming defense of another [THE DEFENSE OF
8 JUSTIFICATION] reasonably believes them to be, the third person would be justified
9 under AS 11.81.330 or 11.81.335 in using that degree of force for self-defense [SELF
10 DEFENSE].

11 * Sec. 5. AS 11.81.350(c) is amended to read:

12 (c) A person in possession or control of any premises, or a guest or an express
13 or implied agent of that person, may use

14 (1) nondeadly force upon another when and to the extent the person
15 reasonably believes it is necessary to terminate what the person reasonably believes to
16 be the commission or attempted commission by the other of criminal trespass in any
17 degree upon the premises;

18 (2) deadly force upon another when and to the extent the person
19 reasonably believes it is necessary to terminate what the person reasonably believes to
20 be a burglary in any degree occurring in an occupied dwelling or building.

21 * Sec. 6. AS 11.81.350 is amended by adding new subsections to read:

22 (e) A person

23 (1) in a vehicle, or forcibly removed from a vehicle, may use deadly
24 force upon another when and to the extent the person reasonably believes it is
25 necessary to terminate what the person reasonably believes to be a carjacking of that
26 vehicle;

27 (2) outside of a vehicle may use deadly force upon another when and
28 to the extent the person reasonably believes it is necessary to terminate what the
29 person reasonably believes to be the theft of that vehicle when another person, other
30 than the perceived offender, is inside of the vehicle.

31 (f) A person justified in using force under this section does not have a duty to

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leave or attempt to leave the area of the encounter before using force.

(g) In (e) of this section, "carjacking" means the robbery of a person in possession of ^{that} a vehicle; "vehicle" means a "motor vehicle" as defined in AS 28.40.100, an aircraft, or a watercraft.

* Sec. 7. AS 11.81.350(d) is repealed.

~~robbery~~

Conceptual Annual
Adopted
↓

a vehicle from ~~the~~

CS FOR SENATE BILL NO. 200()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS THERRIAULT, Dyson, Huggins

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3 *** Section 1.** AS 09.65 is amended by adding a new section to read:

4 **Sec. 09.65.330. Immunity: Use of defensive force.** (a) A person who uses
5 force in defense of self, other persons, or property as permitted in AS 11.81 is not
6 liable for the death of or injury to the person against whom the force was intended to
7 be used, unless the person against whom force was used was a

8 (1) peace officer, whether on or off duty, who was engaged in the
9 performance of official duties; or

10 (2) fire fighter, emergency medical technician, or paramedic engaged
11 in the performance of official duties.

12 (b) The court shall award reasonable attorney fees, court costs, compensation
13 for loss of income, and all expenses incurred by the defendant in defense of a civil
14 action brought by a plaintiff if the court finds that the defendant is not liable under (a)
15 of this section.

1 * Sec. 2. AS 11.81.330 is amended to read:

2 **Sec. 11.81.330. Justification: Use of nondeadly force in defense of self. (a)**

3 A person is justified in using [MAY USE] nondeadly force upon another when and to
4 the extent the person reasonably believes it is necessary for self-defense [SELF
5 DEFENSE] against what the person reasonably believes to be the use of unlawful
6 force by the other person, unless

7 (1) the person used the force in [INVOLVED WAS THE PRODUCT
8 OF] mutual combat not authorized by law;

9 (2) the person claiming self-defense [THE DEFENSE OF
10 JUSTIFICATION] provoked the other's conduct with intent to cause physical injury to
11 the other;

12 (3) the person claiming self-defense [THE DEFENSE OF
13 JUSTIFICATION] was the initial aggressor; [OR]

14 (4) the force used [APPLIED] was the result of using a deadly weapon
15 or dangerous instrument the person claiming self-defense [THE DEFENSE OF
16 JUSTIFICATION] possessed while

17 (A) acting alone or with others to further a felony criminal
18 objective of the person or one or more other persons; or

19 (B) a participant in a felony transaction or purported
20 transaction or in immediate flight from a felony transaction or purported
21 transaction in violation of AS 11.71;

22 (C) acting alone or with others with intent to establish or
23 maintain control over a geographic area or neighborhood, or in response
24 to perceived conduct by a rival or perceived rival, or a member or
25 perceived member of a rival group, for control over the area, if the person
26 using deadly force, or the group on whose behalf the person is acting, has
27 a history or reputation for violence among civilians; or

28 (D) if the weapon used by the person was a firearm that
29 was illegal under state or federal law for the person to possess.

30 (b) A [IN CIRCUMSTANCES DESCRIBED IN (a)(1) - (a)(3) OF THIS
31 SECTION, THE] person who is not justified in using force in self-defense in the

1 circumstances listed in (a)(1) - (3) of this section is justified in using [CLAIMING
2 THE DEFENSE OF JUSTIFICATION MAY USE NONDEADLY] force in self-
3 defense if that person has withdrawn from the encounter and effectively
4 communicated the withdrawal to the other person, but the other person persists in
5 continuing the incident by the use of unlawful force.

6 * Sec. 3. AS 11.81.335 is amended to read:

7 Sec. 11.81.335. Justification: Use of deadly force in defense of self. (a)
8 Except as provided in (b) of this section, a person who is justified in using
9 nondeadly force in self-defense under AS 11.81.330 may use deadly force in self-
10 defense upon another person when and to the extent

11 [(1) THE USE OF NONDEADLY FORCE IS JUSTIFIED UNDER
12 AS 11.81.330; AND

13 (2)] the person reasonably believes the use of deadly force is necessary
14 for self-defense [SELF DEFENSE, against death, serious physical injury, kidnapping,
15 sexual assault in the first degree, sexual assault in the second degree, sexual abuse of
16 a minor in the first degree, or robbery in any degree.

17 (b) A person may not use deadly force under this section if the person knows
18 that, with complete personal safety and with complete safety as to others being
19 defended, the person can avoid the necessity of using deadly force by leaving the
20 area of the encounter [RETREATING], except there is no duty to leave the area
21 [RETREAT] if the person is

22 (1) on premises

23 (A) that [WHICH] the person owns or leases;

24 (B) where the person resides, temporarily or permanently;

25 or

26 (C) as a guest or express or implied agent of the owner,
27 lessor, or resident [AND THE PERSON IS NOT THE INITIAL
28 AGGRESSOR]; [OR]

29 (2) a peace officer acting within the scope and authority of the officer's
30 employment or a person assisting a peace officer under AS 11.81.380;

31 (3) in a building where the person works in the ordinary course of

1 the person's employment; or

2 (4) protecting a child or a member of the person's household.

3 * Sec. 4. AS 11.81.340 is amended to read:

4 **Sec. 11.81.340. Justification: Use of force in defense of a third person.** A
5 person is justified in using [MAY USE] force upon another when and to the extent
6 the person reasonably believes it is necessary to defend a third person when, under the
7 circumstances as the person claiming defense of another [THE DEFENSE OF
8 JUSTIFICATION] reasonably believes them to be, the third person would be justified
9 under AS 11.81.330 or 11.81.335 in using that degree of force for self-defense [SELF
10 DEFENSE].

11 * Sec. 5. AS 11.81.350(c) is amended to read:

12 (c) A person in possession or control of any premises, or a guest or an express
13 or implied agent of that person, may use

14 (1) nondeadly force upon another when and to the extent the person
15 reasonably believes it is necessary to terminate what the person reasonably believes to
16 be the commission or attempted commission by the other of criminal trespass in any
17 degree upon the premises;

18 (2) deadly force upon another when and to the extent the person
19 reasonably believes it is necessary to terminate what the person reasonably believes to
20 be a burglary in any degree occurring in an occupied dwelling or building.

21 * Sec. 6. AS 11.81.350 is amended by adding new subsections to read:

22 (e) A person

23 (1) in a vehicle, or forcibly removed from a vehicle, may use deadly
24 force upon another when and to the extent the person reasonably believes it is
25 necessary to terminate what the person reasonably believes to be a carjacking of that
26 vehicle;

27 (2) outside of a vehicle may use deadly force upon another when and
28 to the extent the person reasonably believes it is necessary to terminate what the
29 person reasonably believes to be the theft of that vehicle when another person, other
30 than the perceived offender, is inside of the vehicle.

31 (f) A person justified in using force under this section does not have a duty to

o a vehicle from

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leave or attempt to leave the area of the encounter before using force.

(g) In (e) of this section, "carjacking" means the robbery of a person in possession of a vehicle; "vehicle" means a "motor vehicle" as defined in AS 28.40.100, an aircraft, or a watercraft.

* Sec. 7. AS 11.81.350(d) is repealed.

Sec. 11.81.330. Justification: General Requirements for use of force in defense of self or others.

(a) A person may use nondeadly force upon another when and to the extent the person reasonably believes it is necessary for self defense against what the person reasonably believes to be the use of unlawful force, unless the person claiming self defense

- (1) used the force in mutual combat not authorized by law;
- (2) provoked the other's conduct with intent to cause physical injury to the other; or
- (3) was the initial aggressor.

(b) A person who is prohibited from using force in circumstances described in (a) of this section, is authorized to use force in self defense if that person has withdrawn from the encounter and effectively communicated the withdrawal to the other person, but the other person persists in continuing to use unlawful force.

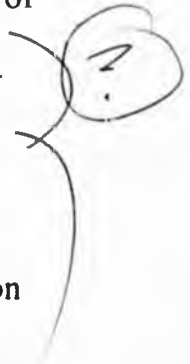
Sec. 11.81.335. Justification: Use of deadly force in defense of self or others.

(a) Except as provided in (b) of this section, a person who is authorized to use nondeadly force under AS 11.81.330 may also use deadly force when and to the extent the person reasonably believes deadly force is necessary for self defense against death, serious physical injury, kidnapping, sexual assault in the first degree, sexual assault in the second degree, sexual abuse of a minor in the first degree, or robbery in any degree, unless the deadly force was the result of the person using a deadly weapon or dangerous instrument

- (1) while acting alone or with others with intent to further a felony criminal objective of the person or one or more other persons;
- (2) while acting alone or with others with intent to establish or maintain control over a geographic area or neighborhood, or in response to perceived conduct by a rival or perceived rival, or a member or perceived member of a rival group, for control over the area, if the person using deadly force, or the group on whose behalf the person is acting, has a history or reputation for violence among civilians;
- (3) while a participant in a felony transaction or purported transaction or in immediate flight from a felony transaction or purported transaction in violation of AS 11.71; or
- (4) if the weapon used by the person was a firearm that was illegal under state or federal law for the person to possess.

(b) A person authorized to use deadly force under this section may do so unless the person knows that, with complete personal safety and with complete safety as to others being defended, the person can avoid the necessity of using deadly force by leaving the area of the encounter, except the person is not required to leave if the person is

- (1) on premises ^{a then} that the person owns or leases, or where the person resides, temporarily or permanently, or a guest or express or implied agent of the owner, lessor or resident;



(2) in a building where the person works in the ordinary course of the person's employment; or

(3) protecting the person's child or a member of the person's household;

or

(4) a peace officer acting within the scope and authority of the officer's employment or a person assisting a peace officer under AS 11.81.380.

Sec. 11.81.340. Justification: Use of force in defense of a third person.

A person may use force upon another when and to the extent the person reasonably believes it is necessary to defend a third person when, under the circumstances as the person claiming the defense of justification reasonably believes them to be, the third person would be justified under AS 11.81.330 or 11.81.335 in using that degree of force for self defense.

Sec. 11.81.350. Justification: Use of force in defense of property and premises.

(a) A person may use nondeadly force upon another when and to the extent the person reasonably believes it is necessary to terminate what the person reasonably believes to be the commission or attempted commission by the other of an unlawful taking or damage of property or services.

(b) A person may use deadly force upon another when and to the extent the person reasonably believes it necessary to terminate what the person reasonably believes to be the commission or attempted commission of arson upon a dwelling or occupied building.

(c) A person in possession or control of any premises, or a guest or an express or implied agent of that person, may use

(1) nondeadly force upon another when and to the extent the person reasonably believes it is necessary to terminate what the person reasonably believes to be the commission or attempted commission by the other of criminal trespass in any degree upon the premises;

(2) deadly force upon another when and to the extent the person reasonably believes it is necessary to terminate what the person reasonably believes to be a burglary in any degree occurring in an occupied dwelling or building.

(d) A person

(1) in a motor vehicle, or forcibly removed from the vehicle, may use deadly force upon another when and to the extent the person reasonably believes it is necessary to terminate what the person reasonably believes to be a carjacking of that motor vehicle;

(2) outside a motor vehicle may use deadly force upon another when and to the extent the person reasonably believes it is necessary to terminate what the person reasonably believes to be the theft of that motor vehicle when another person, other than the perceived offender, is inside the vehicle.

(e) A person authorized under this section to terminate a burglary, arson, carjacking or vehicle theft has no duty to retreat.

Motor vehicle

***Section 1: civil immunity provisions as currently set out in bills**

***Sec. 2.** AS 11.81.300 is amended to read:

Sec. 11.81.330. Justification: General Requirements for use [USE] of [NONDEADLY] force in defense of self or others.

(a) A person may use nondeadly force upon another when and to the extent the person reasonably believes it is necessary for self defense against what the person reasonably believes to be the use of unlawful force [BY THE OTHER], unless the person claiming self defense

(1) used the force in [INVOLVED WAS THE PRODUCT OF] mutual combat not authorized by law;

(2) [THE PERSON CLAIMING THE DEFENSE OF JUSTIFICATION] provoked the other's conduct with intent to cause physical injury to the other; or

(3) [THE PERSON CLAIMING THE DEFENSE OF JUSTIFICATION] was the initial aggressor[; OR

(4) THE FORCE APPLIED WAS THE RESULT OF USING A DEADLY WEAPON THE PERSON CLAIMING THE DEFENSE OF JUSTIFICATION POSSESSED WHILE

(A) ACTING ALONE OR WITH OTHERS TO FURTHER A FELONY CRIMINAL OBJECTIVE OF THE PERSON OR ONE OR MORE OTHER PERSONS; OR

(B) A PARTICIPANT IN A FELONY TRANSACTION OR PURPORTED TRANSACTION OR IN IMMEDIATE FLIGHT FROM A FELONY TRANSACTION OR PURPORTED TRANSACTION IN VIOLATION OF AS 11.71].

(b) A person who is prohibited from using force in [IN] circumstances described in (a)[(1) - (a)(3)] of this section, is authorized to use force in self defense [THE PERSON CLAIMING THE DEFENSE OF JUSTIFICATION MAY USE NONDEADLY FORCE] if that person has withdrawn from the encounter and effectively communicated the withdrawal to the other person, but the other person persists in continuing to use [THE INCIDENT BY THE USE OF] unlawful force.

***Sec. 3.** AS 11.81.335 is amended to read:

Sec. 11.81.335. Justification: Use of deadly force in defense of self or others.

(a) Except as provided in (b) of this section, a person who is authorized to use nondeadly force under AS 11.81.330 may also [MAY] use deadly force [UPON ANOTHER PERSON] when and to the extent the person reasonably believes [THE USE OF] deadly force is necessary for self defense against death, serious physical injury, kidnapping, sexual assault in the first degree, sexual assault in the second degree, sexual abuse of a minor in the first degree, or robbery in any degree, unless the deadly force was the result of the person using a deadly weapon or dangerous instrument

(1) while acting alone or with others, with intent to further a felony criminal objective of the person or one or more other persons;

(2) while acting alone or with others with intent to establish or maintain control over a geographic area or neighborhood, or in response to perceived conduct by a rival or perceived rival, or a member or perceived member of a rival group, for control over the area, if the person using deadly

force, or the group on whose behalf the person is acting, has a history or reputation for violence among civilians;

(3) while a participant in a felony transaction or purported transaction or in immediate flight from a felony transaction or purported transaction in violation of AS 11.71; or

(4) if the weapon used by the person was a firearm that was illegal under state or federal law for the person to possess.

(b) A person authorized to [MAY NOT] use deadly force under this section may do so unless [IF] the person knows that, with complete personal safety and with complete safety as to others being defended, the person can avoid the necessity of using deadly force by leaving the area of the encounter except there is not duty to leave [RETREATING, EXCEPT THERE IS NO DUTY TO RETREAT] if the person is

- (1) on premises that [WHICH] the person owns or leases, or where the person resides, temporarily or permanently, or a guest or express or implied agent of the owner, lessor or resident [AND THE PERSON IS NOT THE INITIAL AGGRESSOR];
- (2) in a building where the person works in the ordinary course of the person's employment;
- (3) protecting the person's child or a member of the person's household; or
- (4) [(2)] a peace officer acting within the scope and authority of the officer's employment or a person assisting a peace officer under AS 11.81.380.

*Sec. 4. AS 11.81.350 is amended to read:

Sec. 11.81.350. Justification: Use of force in defense of property and premises.

(a) A person may use nondeadly force upon another when and to the extent the person reasonably believes it is necessary to terminate what the person reasonably believes to be the commission or attempted commission by the other of an unlawful taking or damaging of property or services.

(b) A person may use deadly force upon another when and to the extent the person reasonably believes it necessary to terminate what the person reasonably believes to be the commission or attempted commission of arson upon a dwelling or occupied building.

(c) A person in possession or control of any premises, or a guest or an express or implied agent of that person, may use

(1) nondeadly force upon another when and to the extent the person reasonably believes it is necessary to terminate what the person reasonably believes to be the commission or attempted commission by the other of criminal trespass in any degree upon the premises;

(2) deadly force upon another when and to the extent the person reasonably believes it is necessary to terminate what the person reasonably believes to be a burglary in any degree occurring in an occupied dwelling or building.

(d) A person

- (1) in a motor vehicle, or forcibly removed from the vehicle, may use deadly force upon another when and to the extent the person reasonably believes it is necessary to terminate what the person reasonably believes to be a carjacking of that motor vehicle;

- (2) outside a motor vehicle may use deadly force upon another when and to the extent the person reasonably believes it is necessary to terminate what the person reasonably believes to be the theft of that motor vehicle when another person, other than the perceived offender, is inside the vehicle.[A PERSON MAY USE DEADLY FORCE UNDER CIRCUMSTANCES DESCRIBED IN (a) OR (c)(1) OF THIS SECTION ONLY WHEN AND TO THE EXTENT THE USE OF DEADLY FORCE IS JUSTIFIED UNDER OTHER SECTIONS OF THIS CHAPTER.] (This repeal is needed because if we don't require employees to retreat from their business premises, it means a shopkeeper could shoot shoplifters.)
- (e) A person authorized under this section to terminate a burglary, arson, carjacking or vehicle theft has no duty to retreat.

Alaska State Legislature

SENATOR
GENE THERRIAULT

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Senate

While in session

State Capitol

Juneau, Alaska

99801-1182

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SENATE DISTRICT F

Sponsor Statement

Senate Bill 200

A Person's Right To Defend With Force

Senate Bill 200 has been introduced to allow individuals to more adequately protect themselves and others from violent crimes.

Based on a Florida Statute hailed as the "Castle Law", Senate Bill 200 would allow force, or deadly force, as a legally available option under certain circumstances where life, property, and the welfare of others is at high risk.

Existing statute currently allows a person to defend with force is specifically on property that a person owns or leases. Senate Bill 200 broadens that right to "stand your ground" any place a person has a right to be. Additionally, a provision extending the right to use force applies to children being threatened with death or serious injury, kidnapping, sexual assault, sexual abuse of a minor, or robbery in any degree.

Finally, the use of deadly force is permissible by a victim remaining inside an automobile being stolen, (car-jacked) or by a person outside a vehicle being stolen if there is a victim inside that vehicle.

A special provision is included to exclude the use of force for any reason against our law enforcement officers or those assisting them in their official duties.

SENATE BILL NO. 200

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY SENATOR THERRIAULT

Introduced: 5/10/05

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to defense of self, other persons, and property."

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

3 * **Section 1.** AS 09.65 is amended by adding a new section to read:

4 **Sec. 09.65.330. Immunity: use of defensive force.** (a) A person who uses
5 force in defense of self, other persons, or property as permitted in AS 11.81 is immune
6 from civil liability for the use of that force unless the person against whom force was
7 used was a peace officer who was engaged in the performance of official duties and
8 the officer identified the officer in accordance with any applicable law or the person
9 using force knew or reasonably should have known that the person was a peace
10 officer.

11 (b) The court shall award reasonable attorney fees, court costs, compensation
12 for loss of income, and all expenses incurred by the defendant in defense of any civil
13 action brought by a plaintiff if the court finds that the defendant is immune from
14 liability under (a) of this section.

15 * **Sec. 2.** AS 11.81.335 is amended to read:

1 **Sec. 11.81.335. Justification: Use of deadly force in defense of self.** (a)

2 Except as provided in (b) of this section, a person may use deadly force upon another
3 person when and to the extent

4 (1) the use of nondeadly force is justified under AS 11.81.330; and

5 (2) the person reasonably believes the use of deadly force is necessary
6 for self defense against death, serious physical injury, kidnapping, sexual assault,
7 sexual abuse of a minor [IN THE FIRST DEGREE, SEXUAL ASSAULT IN THE
8 SECOND DEGREE], or robbery in any degree.

9 (b) A person may not use deadly force under this section if the person knows
10 to a certainty that, with complete personal safety and with complete safety as to
11 others, the person can avoid the necessity of using deadly force by retreating, except
12 there is no duty to retreat if the person is

13 (1) any place where the person has a right to be [ON PREMISES
14 WHICH THE PERSON OWNS OR LEASES] and the person is not the initial
15 aggressor; or

16 (2) a peace officer acting within the scope and authority of the officer's
17 employment or a person assisting a peace officer under AS 11.81.380.

18 * **Sec. 3.** AS 11.81.340 is amended by adding a new subsection to read:

19 (b) Notwithstanding (a) of this section, a person may use deadly force upon
20 another when and to the extent the person reasonably believes a child is in imminent
21 threat of death, serious physical injury, kidnapping, sexual assault, sexual abuse of a
22 minor, or robbery in any degree.

23 * **Sec. 4.** AS 11.81.350 is amended by adding a new subsection to read:

24 (e) A person

25 (1) in a motor vehicle may use deadly force upon another when and to
26 the extent the person reasonably believes it is necessary to terminate what the person
27 reasonably believes to be a carjacking of that motor vehicle;

28 (2) outside of a motor vehicle may use deadly force upon another when
29 and to the extent the person reasonably believes it is necessary to terminate what the
30 person reasonably believes to be the theft of that motor vehicle when another person,
31 other than the perceived offender, is inside of the vehicle.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB200-DPS-AST-1-17-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affect: 1: Public Safety
 Title An Act relating to defense of self, other persons, RDU Alaska State Troopers
and property. Component AST Detachments
 Sponsor Senator Therriault
 Requester Senate Judiciary Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) 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 legislation will have no fiscal impact as it would be absorbed by the current assets of the Department of Public Safety

Prepared by: Lieutenant James Helgoe Phone 907-269-4532
 Division: Alaska State Troopers Date/Time 1/17/06 11:27 AM
 Approved by: Commissioner William Tandeske Date 1/17/2006
 Agency: Department of Public Safety

Section Analysis SB 200

Section 1.

- SB 200 amends the Code of Civil Procedure, Title 9, by adding immunity from civil liability for use of force unless the person is a peace officer engaged in performing his or her official duties and he or she identified himself or herself as a peace officer.
- This section also provides for reasonable attorney fees, court, costs, compensation for loss of income, and all expenses incurred as a result of such a civil action.

Section 2.

- Under current law a person can use deadly force in a situation allowing non-deadly force if the person believes deadly force is needed to prevent death, serious injury, kidnapping and sexual assault.
- Section 2(a) adds sexual abuse of a minor as a reason to use deadly force
- SB bill expands "no retreat" to anyplace a person has a right to be, such as their car, business, or on a sidewalk coming home from a movie
- (Note: "No duty to retreat" already applies in Alaska in your home.)

Section 3:

Provides deadly force can be used, and "no retreat" is in effect, when necessary to protect a child from imminent threat of death, serious physical injury, kidnapping, sexual assault, or sexual abuse.

Section 4:

Provides a person, inside or outside a vehicle being carjacked, may use force to prevent the crime.

Major components of SB 200

- A. Establishes, in law, the presumption that a criminal who forcibly enters or intrudes into your home or occupied vehicle is there to cause death or great bodily harm, therefore a person may use any manner of force, including deadly force, against that person.

- B. Removes the "duty to retreat" if you are attacked in any place you have a right to be. You no longer have to turn your back on a criminal and try to run when attacked. Instead, you may stand your ground and fight back, meeting force with force, including deadly force, if you reasonably believe it is necessary to prevent death or great bodily harm to yourself or others.

- C. Provides that persons using force authorized by law shall not be prosecuted for using such force.

- D. Prohibits criminals and their families from suing victims for injuring or killing the criminals who have attacked them.

- E. Prohibits use of such force against a law enforcement officer at any time or under any conditions.

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Florida "Castle Doctrine" Protects the Innocent

Puts Judiciary on the side of crime victims

News media gets it completely wrong

On March 23, 2005, The Florida Senate passed SB-436, the "Castle Doctrine" unanimously, by a vote of 39 YEAS to zero NAYS. They know something about this bill.

On April 5, The Florida House passed SB-436, "Castle Doctrine" by a vote of 94 YEAS to 20 NAYS, a margin of better than four to one.

On April 26, Governor Jeb Bush SIGNED SB-436, the "Castle Doctrine" into law (Chapter No. 2005-27) It takes effect on October 1, 2005.

The news media nationwide started in immediately with its "Gunshine State," blood in the streets, Dirty Harry, vigilante, irrational mass murder nonsense, mythologies, lies and blatant unethical behavior.

A great deal of erroneous information has been written, published and spoken about Florida's new "Castle Doctrine" law.

Claims that the new law will turn Florida into the Wild West are not only an insult to intelligent people but give a patently false portrait of what the bill actually does.

The Florida "Castle Doctrine" law basically does three things:

One: It establishes, in law, the presumption that a criminal who forcibly enters or intrudes into your home or occupied vehicle is there to cause death or great bodily harm, therefore a person may use any manner of force, including deadly force, against that person.

Two: It removes the "duty to retreat" if you are attacked in any place you have a right to be. You no longer have to turn your back on a criminal and try to run when attacked. Instead, you may stand your ground and fight back, meeting force with force, including deadly force, if you reasonably believe it is

necessary to prevent death or great bodily harm to yourself or others. [This is an American right repeatedly recognized in Supreme Court gun cases.]

Three: It provides that persons using force authorized by law shall not be prosecuted for using such force.

It also prohibits criminals and their families from suing victims for injuring or killing the criminals who have attacked them.

In short, it gives rights back to law-abiding people and forces judges and prosecutors who are prone to coddling criminals to instead focus on protecting victims.

SO -- is this the impression you got from the news? Why not? Aren't media people impartial purveyors of objective facts, with no bias or spin, faithfully and accurately reporting the news? Everyone who believes that's an accurate description of the news media please raise your hand. See? No hands go up. Despite their protests otherwise, the news media has, in general, and especially with respect to gun issues, become an outrageous purveyor of agenda-driven nonsense on the dark side of the force.

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"Castle Doctrine" Self-Defense Law

Tuesday, April 26, 2005

Gov. Bush Signs Florida's New "Castle Doctrine" Self-Defense Law

Fairfax, VA – Today, in a ceremony at the state capitol, Gov. Jeb Bush signed Florida's "Castle Doctrine" (SB-436) into law. Sponsored by Senator Durell Peaden and Representative Dennis Baxley, the bill unanimously passed the Senate and overwhelmingly passed in the House, 94-20.

Prior to signing the National Rifle Association (NRA) supported bill, Gov. Jeb Bush stated, "It's a good, commonsense, anti-crime issue."

The "Castle Doctrine" simply says that if a criminal breaks into your home, your occupied vehicle, or your place of business, you may presume he is there to do bodily harm and you may use any force against him.

It also removes the "duty to retreat" if you are attacked in any place you have a right to be.

Furthermore, this law provides protection from criminal prosecution and civil litigation for those who defend themselves from criminal attack.

Past National Rifle Association (NRA) president and current Executive Director of Unified Sportsmen of Florida, Marion P. Hammer, stated, "Existing law is on the side of the criminal. The new law is on the side of the law-abiding victim."

She continued, "To suggest that you can't defend yourself against a rapist who's trying to drag you into an alley or against a carjacker who's trying to drag you out of your car is nonsense. The ability to protect yourself, your children, or your spouse is important, no matter where you are.

"I want to thank Governor Bush and the bill sponsors, Sen. Peaden and Rep. Baxley, for supporting this vital measure. This law is about affirming that your home is your castle and, in Florida, you have a right to be absolutely safe inside its walls," Hammer concluded.

--nra--

Established in 1871, the National Rifle Association is America's oldest civil rights and sportsmen's group. Four million members strong, NRA continues its mission to uphold Second Amendment rights and advocates enforcement of existing laws against violent offenders to reduce crime. The Association

remains the nation's leader in firearm education and training for law-abiding gun owners, law enforcement and the armed services.

Find this item at: <http://www.nraila.org/News/Read/Releases.aspx?ID=5685>

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Analysis: Fla.'s castle law is win for gun advocates

By Peter Roff
UPI Senior Political Analyst

Washington, DC, Apr. 26 (UPI) -- The 1968 murder of U.S. Sen. Robert F. Kennedy, D-N.Y., set in motion a series of events leading to the passage of landmark gun-control legislation. Over the next 30 years proponents of greater regulation on the sale and private ownership of guns gained considerable ground throughout the United States.



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In recent years, however, the pendulum has swung back the other way. Now, it is the supporters of gun rights -- rather than those who have as their ultimate objective the

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abolition of the right to own a firearm -- who are winning political victories.

The latest battle is in the state of Florida, where Republican Gov. Jeb Bush signed legislation Tuesday allowing citizens to "meet force with force" when attacked outside their homes.

Under the old law, something that is the case in many states, citizens under attack are considered to have a duty to retreat whenever possible. They put themselves in jeopardy if they defend against assaults by criminals through the use of potentially deadly force instead of running away if they have the chance. The new law, which passed unanimously in the Florida Senate and by a vote of 94 to 20 in the Florida House of Representatives, allows citizens the freedom to presume a criminal who breaks into their home, their car or their place of business intends to inflict bodily harm and makes it permissible to use force as a defense.

Pro-gun activists have nicknamed the new law the "Castle Doctrine," which also provides protection against criminal prosecution and civil litigation for those citizens who use force to defend themselves against criminals.

Marion P. Hammer, executive director of the Unified Sportsmen of Florida, described the new law as reversing the inequity that exists in the current code. "Existing law is on the side of the criminal. The new law is on the side of the law-abiding victim," said Hammer, a former president of the 4.5 million-member National Rifle Association.

The passage of the Castle Doctrine legislation is the latest in a string of successes for supporters of the Second Amendment going back to the mid-1990s when, through initiatives like the NRA's CrimeStrike, gun-rights advocates began to push for legislation and ballot measures that would turn the gun

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- WB ready to settle India-Pakistan dispute
- Analysis: Fla.'s castle law is win for gun advocates
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debate into a discussion of crime and criminals.

One of the earliest examples is in Virginia, where gun controllers scored a major success when they persuaded Democrat Gov. L. Douglas Wilder to support legislation banning the purchase of more than one gun per month in the commonwealth.

Considered a model for the nation, gun opponents intended to take the measure from state to state, the argument being that no reasonable person would seek to buy more than one gun per year -- let alone per month. That changed, however, during Virginia's 1993 gubernatorial race when the pro-gun-control candidate, Democrat Attorney General Mary Sue Terry, saw her almost 20-point lead in the polls evaporate after Republican George Allen decided to propose abolishing parole. Asked to choose between being tougher on guns or tougher on convicted criminals, Virginia voters chose the latter and elected Allen in a landslide.

Another seminal shift in the gun debate came as activists in states like California placed and passed measures on the ballot that would make a life sentence without parole mandatory after a third felony conviction. Again, the emphasis on criminals over the guns they might use helped refocus the discussion.

Other defeats for the gun-control lobby include its failure to close the so-called gun-show loophole and the failure of the GOP-controlled Congress to consider extending the Clinton-era ban on the sale on some so-called assault-style weapons, guns that made the banned list more because of the way they looked than because of their capacity vis-à-vis other firearms. The NRA's embrace of the so-called insta-check system, an instant background check performed on those who wish to purchase a firearm, also worked to its

advantage. The proponents of greater gun control had expected the gun-rights group to oppose the measure and were thrown for a loop when they endorsed it.

Another pending defeat is the almost certain passage, sometime in the next few years at most, of legislation protecting firearms manufacturers from product-liability suits arising out of the unlawful use of the guns they sell. Some gun-control advocates argue these lawsuits could bankrupt the U.S. gun industry, a helpful step in their effort to reduce the number of private firearms in the United States.

The new so-called Castle Law, like the NRA-backed effort in favor of so-called must issue concealed carry legislation, will likely be pushed from state to state now that it has been enacted in Florida. This raises the hackles of leaders in the gun-control movement like Sarah Brady, who told the Washington Post she was "in absolute shock" over the news the law had passed.

Castle Law opponents like Dan Gelber, a Democratic state representative from Miami Beach, maintain it is an invitation to a Wild West sort of public square and takes things in the wrong direction. "People ought to have to walk away if they can," he told the Post.

This is a tough sell, especially when balanced against the personal-safety argument made by Hammer and others who continue to maintain that crime and criminals are the problem rather than guns.

"To suggest that you can't defend yourself against a rapist who's trying to drag you into an alley or against a carjacker who's trying to drag you out of your car is nonsense," Hammer said. "The ability to protect yourself, your children or your spouse is important, no matter where you are."

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Florida's New "Stand Your Ground" Law: Why It's More Extreme than Other States' Self-Defense Measures, And How It Got that Way

By ANTHONY J. SEBOK
anthony.sebok@brooklaw.edu

Monday, May. 02, 2005

Last week, Governor Jeb Bush signed a bill that has become known as the "Stand Your Ground" law. The law immunizes citizens who use deadly force in self-defense against criminal prosecution and civil liability.

Critics of the law are afraid it will promote vigilantism. Supporters say that it merely brings Florida into line with the majority of other states. But the truth is the law goes beyond what other states are doing.

In this column, I'll discuss the new law, and argue that it is an example of a simple reform that was hijacked by the NRA.

What Florida Self-Defense Law Previously Was Like

Until last week, the law in Florida concerning self-defense could be divided into two parts: First, there were the rules that governed when deadly force could be used if one was attacked in one's own home. Second, there were the rules that governed when deadly force could be used if one were attacked outside of one's own home.

To explain the prior Florida rules, I will use the example of Lisa, who is attacked by Bob.

First, imagine Lisa is attacked by Bob in her own home. She could use deadly force if she were reasonably afraid that Bob was going to inflict

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a serious injury on her. Moreover, even if Bob was a burglar interested only in her property and she had the option of running outside of her house to safety, she could use deadly force if she were reasonably afraid that Bob was going to inflict a serious injury on her if she did not run away. Put simply, she is allowed to "stand her ground."

This is known as the "castle doctrine" -- based on the maxim that "One's home is one's castle" -- and it governs the rules of self-defense for criminal and tort law in almost every state.

Second, imagine, instead, that Lisa is attacked by Bob on the street in Florida. In this instance, she cannot use deadly force if she can retreat safely from Bob. (For instance, suppose a drunken, knife-wielding Bob confronts Lisa in front of a bar featuring armed bouncers, into which Lisa can safely escape.) So even if Lisa knows Bob will kill her if she "stands her ground," she cannot kill him while still being able to retreat.

Florida's retreat doctrine reflected a certain attitude among courts which might seem quaint today, but is easy to understand. Florida courts took the position that life was so precious -- even the lives of people like Bob -- that victims of violent attacks should not kill unless it became absolutely necessary.

The bottom line, then, was that victims had to take advantage of a "safe" retreat except when attacked in their own homes. But what if the victim doesn't retreat? What consequences follow? Could she be prosecuted, sued, or both?

In almost every state except Florida, Lisa could not be criminally prosecuted. In a majority of states, she also cannot be sued in tort.

But some states would allow Lisa to be sued. And the Restatement (Second) of Torts -- a classic statement of tort law principles -- agrees: Its Section 65 would still allow Bob to sue Lisa for personal injuries if she responded to his upturned knife with a gunshot when she could have retreated safely.

How the New "Stand Your Ground" Law Changed the "Castle" Doctrine

Florida's new "Stand Your Ground" law changes Florida's self-defense rules in several ways.

First, it is now very easy to invoke the "castle" doctrine in Florida.

Under the old law, a person who killed someone in their home had the burden of proof to show that they were in fear for their safety. Now, all a person has to do is establish that the person they killed was "unlawfully" and "forcibly" entering their home when they shot the victim.

That is because the new law creates a presumption that anyone who forcibly and illegally enters a home is intent on threatening the lives of the people within. And, at least according to a report written for the Judiciary Committee of the Florida Senate, that presumption is

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conclusive; it cannot be rebutted with contrary evidence.

So let's go back to Lisa and Bob. Under the old law, Lisa would have had to prove not only that Bob was in her home, but also that she was afraid for her life (or the lives of others in the house). In reality, that was often easy to do -- usually juries would take the word of a living homeowner over a dead burglar (even if the burglar was unarmed). But now Lisa, in theory, has a free hand to shoot even a plainly unarmed burglar as to whom he or she, in fact, felt no fear at all.

Second, the new Florida law expands the definition of "castle" to include vehicles -- such as cars and boats. This expansion the castle doctrine was clearly intended to address carjacking.

Third, in Florida, Lisa can now "stand her ground" even if she is outside of her home. But to do so, she must "reasonably believe" that using deadly force is necessary to prevent "imminent" use of deadly force against herself or others.

Thus, Florida is now joining the large number of states who do not value "life" above the right to stand unmolested wherever one wants. It's unlikely, however, that this change will change outcomes in particular cases.

Previously, all Lisa had to do to win her case was argue that she honestly and reasonably believed that she could not retreat safely. Now, she has to argue, instead -- somewhat similarly -- that she reasonably believed that if she didn't use deadly force, Bob imminently would.

Under either standard, Lisa still has the burden of proof to justify her killing. Also, under either standard, the jury may disbelieve her if there are witnesses around to contradict her story.

It's Not True that the New Law Merely Aligns Florida with Other States

According to Rep. Dennis Baxley, R-Ocala, the new law brings Florida into line with other states. "We're not breaking ground here. We're catching up," Baxley said.

That is probably more or less true when it comes to the legal standard governing use of deadly force outside the house. But it is very inaccurate when it comes to the legal standard governing killings inside of homes -- and, especially, in vehicles, which now count as a kind of "castle" under the "castle doctrine." Here, the new law has truly radical effects.

Why? Because the new law bulks up the old "castle" doctrine -- once a reasonable rule of law -- until it is a legal monstrosity: a legal Incredible Hulk.

Recall that now, at least according to the Senate Report, there is an irrebuttable presumption that anyone who forcibly and illegally enters a home -- or, under the new law, a car -- is intent on threatening the lives of the people within. That means that even in the face of overwhelming evidence that Bob had no intent to physically harm

Lisa, his estate will not be able to sue her.

It may, in fact, be the reality, that in almost all cases in which a citizen kills an unlawful intruder, or carjacker, it is because the unlawful intruder, or carjacker, was capable of killing, and willing to kill, the citizen first. (I suppose the "gentleman thief" no longer exists in Florida.) But there is at least a chance of serious miscarriages of justice.

Suppose that a doctor's drug addict brother breaks into his mansion to raid the medicine cabinet. Now, the doctor can kill his brother to ensure that he will be the sole heir to their wealthy parents' estate.

Or suppose a teacher upon entering his SUV, finds a student who has broken in so that he can deface the interior. Though the intent was clearly vandalism, and the boy has no record of violence, the irate teacher guns down the student. According to Florida, this would appear to be legal.

What can proponents say when examples like these are raised? It's hard to imagine. Perhaps they would claim that those who break the law by violating another's "castle" deserve what they get -- even if what they get is death.

The "Stand Your Ground" Law Says Property Is More Important than Life

In this respect, Florida has taken a wrong turn that no other state should emulate.

In effect, its law allows citizens to kill other citizens in defense of property.

The principle holding that life is more valuable than the defense of property is deeply embedded in our legal history. The Florida law contravenes this simple principle. (That is does so by hiding behind a legislative "presumption" that all burglars or car thieves are potential killers should not obscure that fact.)

The old version of the castle doctrine told homeowners that they could kill when they reasonably believed that their lives were in danger. Now the law tells average citizens they can kill when they reasonably believe that their homes or vehicles have been illegally and forcibly invaded.

That adds an additional wrinkle -- and an additional way innocents can be killed. Anyone can make a mistake in the heat of the moment, but the margin for error in the new law is unbearably large.

What if Bob is a panhandler who approaches Sue's car and touches it against her wishes? Perhaps it would be obvious to most observers that he had no intention of entering the car, but what if Sue panics and thinks he is a carjacker?

It is of no help to say that the law was not designed to permit her to use deadly force under those circumstances: after Bob is dead and Sue is facing criminal and civil penalties, the damage has already

been done.

The only test of laws is their effect in the real world. The castle doctrine, until it was changed by Florida, was a practical compromise between a number of competing interests in life. It was a balance between the state's interest in allowing citizens to protect their own lives, and its interest in minimizing violence in the streets -- ranging from vigilantism to a too-quick trigger finger.

The new "Stand Your Ground" law is likely to produce a number of ugly real-world side effects. Its real purpose seems to be the capital punishment of property-criminals, regardless of whether their deaths help protect the lives of anyone else.

Furthermore, Florida's castle doctrine has now been expanded so that the test for self-defense covers far more circumstances and locations than before.

All in all, the room for error is much larger. In addition, the law sends a very confusing message to the citizens of Florida about when they can use lethal force with impunity.

If my prediction that this law will insulate certain home- or car-owners who kill without good reason to do so turns out to be correct, I hope the Florida legislature will have the courage to revisit this law and fix it. In the meantime, the NRA, flush with their victory in Florida, is lobbying to have the "Stand Your Ground" law adopted in other states, such as New York. Other states should reject the NRA's "help" when it comes to revising their self-defense laws.

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Anthony J. Sebok, a FindLaw columnist, is a Professor at Brooklyn Law School. His other columns on tort issues may be found in the archive of his columns on this site.



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Posted 11/1/2005 12:48 PM Updated 11/1/2005 1:07 PM

Police: Tourists stabbed in park near White House

WASHINGTON (AP) — Three people were stabbed Tuesday in Lafayette Park, across from the White House, the Secret Service said.

Eric Zahren, a spokesman for the agency, said one person was detained, but said he could provide no further information. Zahren said investigators did not immediately know what prompted the attack, which he said happened in the northeast corner of the park. That section of the park remained roped off for authorities at midday.

"Another person might have had their shirt slashed," said Sgt. Scott Fear, a spokesman for the U.S. Park Police, which was also investigating.

Fear told WUSA-TV that three victims were sent to a local hospital and were being treated for non-life-threatening injuries. He said the area of the attack was closed, but the rest of the park was open and a crowd of people was gathered there having lunch. **(Related video: Lafayette Park stabbings)**

He later said the three victims apparently were tourists and all were adults.

There was no indication that the acts of violence were related in any way to the White House. The park, which faces the North Portico of the Executive Mansion along Pennsylvania Avenue, historically has been a staging area for protests and demonstrations.

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For Immediate Release: November 3, 2004

How the 'Make My Day' law cut epidemic of violent burglary

By Charles Laurence

Sunday London Telegraph

At 3.30am on January 6, 1987, Dr Frank Sommer, a dentist in Tulsa, Oklahoma, woke to the sound of his garage door opening. He looked at the clock, mentally scolded his son, then 18, or his daughter 20, for getting home so late, and waited for the sound of their footsteps downstairs.

"After a few minutes, I thought that it was odd that I had heard nothing more. I took the gun from my nightstand, left my wife fast asleep and went downstairs to make sure everything was OK," he recalled yesterday.

What happened next was an experience of pure terror. As he looked through the peep-hole from the kitchen into the garage, he saw two strange men. One was pilfering from his wife's car: the other was standing at the opened door, by the tool racks.

Just as he stepped through the door to challenge the intruders, the lights went out. "It was total darkness and suddenly I was very, very scared. I fired one shot and yelled a warning. I saw one of them run off and as I went towards the driveway I saw a body in the doorway. 'Oh no!' I thought. 'He's dead.' "

In those few seconds Dr Sommer, 66, had been plunged into a case that

changed the law in Oklahoma and may yet influence a change in the law in Britain. Within weeks of the incident, the Oklahoma state government passed legislation that became known as the Make My Day Law, named for the celebrated scene in the Clint Eastwood Dirty Harry film.

The law was pushed through by Sen Charles Ford, a Republican, the opposition party in the state.

"The purpose of the law is to protect the victim of crime who defends his home and his family against unlawful intrusion from any criminal prosecution or civil action," Sen Ford said last week.

"We considered it outrageous that someone who protects his home and family should suffer. Our law says you can use any force, including deadly force, to defend your home."

It has been an unqualified success. Since the Make My Day Law came into force, burglary has declined by almost half in Oklahoma. In 1987, there were 58,333 cases; in 2000, just 31,661.

While crime rates throughout America fell in the 1990s, Make My Day supporters point to a second statistic in Oklahoma they say proves the impact of the new law: while burglary rates plunged, other forms of theft stayed constant. In 1988, there were 96,418 cases, in 2000, 96,111.

Similar anti-burglar laws have now been adopted in Colorado and Arizona. The reason, said Sen Ford, was simple: "The law works. We were in the grip of a violent burglary epidemic when Dr Sommer's home was invaded.

"Over that Christmas, we had six people in their 70s and 80s killed, bludgeoned

to death by burglars in their bedrooms. How were they meant to defend themselves if they could not legally resort to lethal force?" he said.

Giving householders immunity from criminal and civil action was also inspired by Dr Sommer's experience. Although he was taken to the police station and interrogated, the District Attorney read the public mood over the series of deadly burglaries and decided against charging him with the killing of the burglar, Russell Bryant, 19.

An "ambulance chaser" lawyer contacted Bryant's family and sought damages for a lifetime of lost earnings on the grounds that the killing was unlawful.

"This was outrageous and focused attention on the vague state of the law which left the victim of burglary vulnerable," said Sen Ford, 73.

Prior to the Make My Day legislation, the law, as it remains in most American states, sanctioned force in self-defence and the defence of property, but only on the basis of "reasonable" response to the violence offered by the criminal. This allows a baseball bat against a baseball bat, a knife against a knife, and a gun against a gun - although in theory the householder should allow the burglar to shoot first.

There have now been at least 11 cases where intruders have been shot dead in Oklahoma and the householders who pulled the trigger have escaped any sanction under the Make My Day law.

While Dr Sommer is a fervent supporter of the law protecting householders, he said that killing Bryant had left him into overwhelming feelings of guilt and that for years he was tormented by the thought that he had committed the "ultimate sin".

"Every time I go into that garage I think about it," he explained. "But I do not regret it. My wife and children were in our home. I am sorry that young man was in the wrong place at the wrong time. But that was of his choosing."

For more information contact:

Senate Communications Office - (405) 521-5774

SB

206

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 206(JUD)
 (S) Publish Date: 3/15/06

Revision Date/Time (Note if correction): 2/16/06/10:04 a.m. Dept. Affected: Administration
 Title: An Act relating to material witnesses RDU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: Sen. Bunde
 Requester: (S)JUD Component No.: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill permits a material witness to be arrested and confined under an order of the court, and provides for legal representation in the event that a person can not afford an attorney. The Office of Public Advocacy would be required to represent indigent material witnesses.

This bill is not expected to affect the Public Defender Agency's fiscal operations.

Prepared by: Quinlan Steiner, Director Phone 907.334.4414
 Division: Public Defender Agency Date/Time 2/16/06 10:04 a.m.
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/17/2006
 Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSSB 206(FIN)
 (S) Publish Date: 3/24/06

Revision Date/Time (Note if Revision): 3/19/06 11:15 a.m. Dept. Affected: Administration
 Title: An act relating to material witnesses; ... RDU: Legal and Advocacy Services
 Component: Office of Public Advocacy
 Sponsor: Senator B. de
 Requester: (S) Finance Component No.: 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
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 (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This bill permits a material witness to be detained and fingerprinted under certain exigent circumstances. It also amends the penalty statute for contempt.

 This bill is not expected to have an fiscal impact on the Office of Public Advocacy.

Prepared by: Joshua P. Fink, Director Phone: (907) 269-3500
 Division: Office of Public Advocacy Date/Time: 3/19/06 11:15 a.m.
 Approved by: Mike Tibbies, Deputy Commissioner Date: 3/20/2006
 Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 6
 Bill Version: CSSB 206(FIN)
 (S) Publish Date: 3/24/06

Revisor: Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title: "An act relating to detention of material witnesses" RDU: Institutional Facilities
 Component: Institution Director's Office
 Sponsor: Senator Bunde
 Requester: Senate Judiciary Component No.: 1381

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

The department anticipates an extremely small number of potential cases each year that may be impacted by the language contained in the legislation. Due to the small number of potential cases and the fact that a sentence, if imposed, may not exceed 10 days of imprisonment, passage of the legislation should not have a significant fiscal impact on the Department of Corrections.

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

Phone (907) 465-3339
 Date/Time 3/19/06 3:19 PM
 Date 3/19/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 7
 Bill Version: CSSB 206(FIN)
 (S) Publish Date: 3/24/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to contempt of court and to RDU CRIMINAL
temporary detention and identification of persons." Component Criminal Justice Litigation
 Sponsor Senator Bunde
 Requester Senate Finance Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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)

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill allows for stiffer penalties for contempt of court when it arises from failure to honor a subpoena or refusal to be sworn or answer as a witness under was in connection with a court proceeding relating to a felony crime or an appearance before the grand jury. It also creates a new Article in the Criminal Code under Chapter 50 (Witnesses). The new article allows a peace officer to temporarily detain a person who witnessed or may have witnessed a crime or the detention is necessary to identify the person, obtain an account of the crime or protect the person from imminent harm or for other exigent circumstances. It allows the peace officer to subject the detainee to certain procedures such as photographs or fingerprints and makes it a class B misdemeanor if the person refuses or resists the taking of photographs or fingerprints. Passage of this legislation will not have a fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 3/17/06 3:04 PM
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 3/17/2006
 Agency Department of Law



Alaska State Legislature
Senator Con Bunde
Senate District P

Vice Chair: Senate Finance Committee
Chair: Senate Labor & Commerce Committee

Sponsor Statement
SB 206

"An Act relating to contempt of court and to temporary detention and identification of persons."

Written in Alaska's constitution is an acknowledgement of an individual's freedom and an individual's corresponding obligation to our state. Striking a balance between the needs of society to prosecute crime, the rights of a defendant to witnesses on their behalf and the right of an individual to be free from unreasonable arrest is the central issue in Senate Bill 206 Detention of Material Witnesses.

A material witness is a witness whose testimony is crucial to either the defense or prosecution. SB 206 adds a section to AS 12.50 allowing peace officers to temporarily detain material witnesses at the scene of a crime. SB 206 outlines that the detention is allowed only when it is necessary to obtain the identification of the witness, to obtain an account of the crime, to protect a crime victim from imminent harm, or for other exigent circumstances.

SB 206 allows a police officer who has detained a person under these circumstances to photograph the person; serve a subpoena on the person to appear before the grand jury if the person fails to provide valid government-issued identification and; take the person's fingerprints if the person is detained in connection with the investigation of a murder, attempted murder or misconduct involving weapons in the first degree under AS 11.61.190.

Giving peace officers the ability to gain the identification of material witnesses at the scene of a crime protects both the needs of society and the rights of the individual. Material witnesses can be the deciding factor in bringing indictments and prosecuting crime. Alternatively, material witnesses may also provide crucial testimony to defendants' arguments. SB 206 balances the interests of individuals' freedom with the need to collect information at the scene of a crime.



Alaska State Legislature

Senate Majority, Web: www.akrepublicans.org

Sponsor: Senator Con Bunde
Current Version: CSSB 206 (FIN)
Contact: Lauren Rice, 465-3881

Fact Sheet for: Senate Bill 206

Short Title: DETENTION OF MATERIAL WITNESSES

Summary:

- Increases the penalty for contempt of court for failure to honor a subpoena or refusal to answer as a witness in connection with a felony crime or appearance before the grand jury.
- Adds a section to AS 12.50 allowing a peace officer to temporarily detain a person under circumstances that give the officer reasonable suspicion that:
 - the person witnessed a crime or was in the vicinity of a crime such as homicide or manslaughter;
 - the person may have information of material aid in the investigation of that crime, and;
 - the temporary detention is reasonably necessary to obtain or verify the identification of the person, to obtain an account of the crime, to protect a crime victim from imminent harm, or for other exigent circumstances.
- Allows a police officer who has detained a person under these circumstances to:
 - photograph the person;
 - serve a subpoena on the person to appear before the grand jury if the person fails to provide valid government-issued identification;
 - take the person's fingerprints if the person is detained in connection with the investigation of a murder, attempted murder or misconduct involving weapons in the first degree under AS 11.61.190.
- Prohibits the peace officer from requiring the person to sign a subpoena issued under this section, and requires the peace officer to advise the person that failure to honor the subpoena is punishable as criminal contempt of court.
- Allows a person receiving a subpoena to request the district attorney to withdraw the subpoena if the person provides a valid government-issued photographic identification prior to the grand jury proceeding.
- Makes it a class B misdemeanor to refuse or resist the taking of photos or fingerprints, and outlines procedures for retaining or destroying them.

Benefits:

- Balances the need to protect individual freedom with the ability to prosecute crime and to provide defendants with witnesses on their behalf.

Background:

- A material witness is crucial to either the defense or prosecution. Unfortunately, material witnesses often refuse to cooperate with law enforcement officials, significantly impeding the ability to bring indictments or prosecute crime. SB 206 protects material witnesses from unreasonable arrests or confinement and helps ensure the availability of crucial testimony.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 206(JUD)
 (S) Publish Date: 3/15/06

Revision Date/Time (Note if correction): 2/16/06/10:04 a.m. Dept. Affected: Administration
 Title: An Act relating to material witnesses RDU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: Sen. Bunde
 Requester: (S)JUD Component No.: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill permits a material witness to be arrested and confined under an order of the court, and provides for legal representation in the event that a person can not afford an attorney. The Office of Public Advocacy would be required to represent indigent material witnesses.

This bill is not expected to affect the Public Defender Agency's fiscal operations.

Prepared by: Quinlan Steiner, Director Phone 907.334.4414
 Division: Public Defender Agency Date/Time 2/16/06 10:04 a.m.
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/17/2006
 Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 206(JUD)
 (S) Publish Date: 3/15/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An act relating to material witnesses..." RDU Institutional Facilities
 Component Institution Director's Office
 Sponsor Senator Bunde
 Requester Senate Judiciary Component No. 1381

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation should not have a significant fiscal impact on the Department of Corrections based on the following language, located on page 5, lines 2 and 3 of the legislation, "...The party obtaining the material witness order bears the cost of confinement and payment, unless the party is indigent." And on page 4, lines 20, 21, and 22 "...An arrested or confined material witness may not be held in a correctional facility but shall be provided food and board as is provided to a member of a jury when sequestered."

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

Phone (907) 465-3339
 Date/Time 2/16/06 9:02 AM
 Date 2/16/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSSB 206(JUD)
 (S) Publish Date: 3/15/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to material witnesses..." RDU CRIMINAL
 Component Criminal Justice Litigation
 Sponsor Senator Bunde
 Requester Senate Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill adds new sections to Article 2 (Witness Immunity) of the Code of Criminal Procedure, Sentencing and Probation. These changes would allow the arrest of people who are important witnesses, when there is probable cause that they won't appear to testify. The bill requires that those arrested be housed in hotels rather than jails. The Department of Law assumes that the Department of Corrections would be responsible for such individuals and the resultant fiscal impact from the higher costs associated with hotel bills would be borne by that agency. If that assumption is correct, there would be no fiscal impact on the Department of Law as a result of passage of this legislation.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 2/16/06 9:44 AM
 Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 2/16/2006
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSSB 206(JUD)
 (S) Publish Date: 3/15/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to material witnesses; ... RDU Legal and Advocacy Services
 Component Office of Public Advocacy
 Sponsor Senator Bunde
 Requester (S) Judiciary Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	*	*	*	*	*	*
Travel						
Contractual	*	*	*	*	*	*
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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	*	*	*	*	*	*

Estimate of any current year (FY2006) cost: 0.0
 Check 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 legislation would establish a process through which a prosecutor or defendant could apply to the superior court for an order compelling a person to appear at a material witness hearing if the individual has relevant information for the prosecution or defense and the person is unlikely to respond to a subpoena. The bill also provides a process to arrest material witnesses with or without a warrant, and a process under which a material witness could be confined. The bill further provides that alleged material witnesses are entitled to legal representation through the Office of Public Advocacy, regardless of the financial need of the individual.

Prepared by: Josh Fink, Director Phone 269-3500
 Division: Office of Public Advocacy Date/Time 2/27/06 12:00 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 2/27/2006
 Agency: Department of Administration

FISCAL NOTE # 4

**STATE OF ALASKA
2006 LEGISLATIVE SESSION**

BILL NO. CSSB 206(JUD)

ANALYSIS CONTINUATION

If this statute were rarely used, the costs to OPA would be de minimus. However, if prosecutors and/or defense attorneys made significant use of this legislation (for instance, to hold alleged gang members who do not cooperate with police), costs could be significant. Each individual held in relation to a particular case would be entitled to conflict-free counsel. This would mean OPA would first use staff attorneys and then have to retain private counsel on contract for each additional material witness held in relation to a particular case. Because there is no financial indigency requirement, even those who could afford counsel would receive counsel through OPA.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSSB 206(FIN)
 (S) Publish Date: 3/24/06

Revision Date/Time (Note if Revision): 3/19/06 11:15 a.m. Dept. Affected: Administration
 Title An act relating to material witnesses; ... RDU Legal and Advocacy Services
 Component Office of Public Advocacy
 Sponsor Senator Bunde
 Requester (S) Finance Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
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 (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill permits a material witness to be detained and fingerprinted under certain exigent circumstances. It also amends the penalty statute for contempt.

This bill is not expected to have an fiscal impact on the Office of Public Advocacy.

Prepared by: Joshua P. Fink, Director Phone (907) 269-3500
 Division Office of Public Advocacy Date/Time 3/19/06 11:15 a.m.
 Approved by: Mike Tibbles, Deputy Commissioner Date 3/20/2006
 Agency Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 6
 Bill Version: CSSB 206(FIN)
 (S) Publish Date: 3/24/06

Revision: Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title: "An act relating to detention of material witnesses" RDU: Institutional Facilities
 Component: Institution Director's Office
 Sponsor: Senator Bunde
 Requester: Senate Judiciary Component No.: 1381

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

The department anticipates an extremely small number of potential cases each year that may be impacted by the language contained in the legislation. Due to the small number of potential cases and the fact that a sentence, if imposed, may not exceed 10 days of imprisonment, passage of the legislation should not have a significant fiscal impact on the Department of Corrections.

Prepared by: Sharleen Griffin, Director Phone: (907) 465-3339
 Division: Administrative Services Date/Time: 3/19/06 3:19 PM
 Approved by: Portia C.K. Parker, Deputy Commissioner Date: 3/19/2006
 Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 7
 Bill Version: CSSB 206(FIN)
 (S) Publish Date: 3/24/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act relating to contempt of court and to RDU: CRIMINAL
temporary detention and identification of persons." Component: Criminal Justice Litigation
 Sponsor: Senator Bunde
 Requester: Senate Finance Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill allows for stiffer penalties for contempt of court when it arises from failure to honor a subpoena or refusal to be sworn or answer as a witness under was in connection with a court proceeding relating to a felony crime or an appearance before the grand jury. It also creates a new Article in the Criminal Code under Chapter 50 (Witnesses). The new article allows a peace officer to temporarily detain a person who witnessed or may have witnessed a crime or the detention is necessary to identify the person, obtain an account of the crime or protect the person from imminent harm or for other exigent circumstances. It allows the peace officer to subject the detainee to certain procedures such as photographs or fingerprints and makes it a class B misdemeanor if the person refuses or resists the taking of photographs or fingerprints. Passage of this legislation will not have a fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director
 Division: Administrative Services Division
 Approved by: Kathryn Daughhete for David Márquez, Attorney General
 Agency: Department of Law

Phone: 465-3673
 Date/Time: 3/17/06 3:04 PM
 Date: 3/17/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 8
 Bill Version: CSSB 206(FIN)
 (S) Publish Date: 3/24/06

Revision: Date/Time (Note if correction): 3/17/06 8:35 a.m. Dept. Affected: Administration
 Title: An Act relating to material witnesses RDU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: Sen. Bunde
 Requester: (S)FIN Component No.: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill permits a material witness to be detained and fingerprinted under certain exigent circumstances. It also amends the penalty statute for contempt.

This bill is not expected to have an impact on the Public Defender Agency's fiscal operations.

Prepared by: Quinlan Steiner, Director
 Division: Public Defender Agency
 Approved by: Mike Tibbles, Deputy Commissioner
 Agency: Administration

Phone (907) 334-4414
 Date/Time 3/17/2006 8:35 a.m.
 Date 3/17/2006



FAIRBANKS POLICE DEPARTMENT

911 Cushman Street
Fairbanks, AK 99701-4616
Phone: (907) 450-6500
Fax: (907) 452-1588
Email: fpd@ci.fairbanks.ak.us



Senator Ralph Seekins
119 N. Cushman Street
Fairbanks, AK 99701

March 14, 2006

Dear Senator Seekins:

I am writing to voice my strongest support for **HB 206**, a measure introduced by Senator Con Bunde, which would allow police officers to briefly detain and identify material witnesses in homicide cases.

I am appreciative of the concerns that may arise from this bill- most notably from those who are concerned with an erosion of civil liberties, and are hesitant to grant "additional powers" to the police. I believe that these concerns are effectively addressed by the revised language of this bill whose *very narrow focus* dictates that such brief detentions and identification efforts shall only be employed in the immediate aftermath of a homicide.

One only needs to look at the escalating gang-violence and homicide rate in Anchorage to know that this is a very *real problem* which needs to be addressed in a common-sense fashion. As one whom I view to be a long-time supporter of law-enforcement in Alaska, I'm hopeful that you will lend your support to the passage of HB 206.

Sincerely,

A handwritten signature in cursive script that reads "Daniel P. Hoffman".

Daniel P. Hoffman, Chief
Fairbanks Police Department

SB

249

ALASKA STATE LEGISLATURE



SENATOR HOLLIS FRENCH

SB 249- Criminal Justice Information

Sponsor Statement

Law enforcement in a state the size of Alaska presents numerous challenges. One way to overcome those challenges is to efficiently share public safety information that is available in separate agencies and departments that are not "talking" to one another.

Important examples of information not being shared now are conditions of bail, probation, and parole. These conditions can prohibit a wide range of activities that are otherwise lawful. For example, a judge can issue bail conditions that prohibit the defendant from driving a car, consuming alcohol, or simply being near a certain person or physical location.

Unfortunately, there is no provision in Alaska law that requires these conditions be listed in the Alaska Public Safety Information Network, or APSIN. Thus, our police officers and troopers have no practical way of knowing whether any person with whom they come into contact is or is not obeying their conditions of bail, probation or parole.

SB 249 is designed to close this gap and to provide another important tool to law enforcement.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB249(JUD)-Courts-3-2-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title An Act Relating to Criminal Justice Information RDU Alaska Court System
 Component Trial Courts
 Sponsor Senator French
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Because the court system is already working to implement the changes made by CSSB 249(JUD), we do not anticipate any fiscal impact from the passage of this bill.

Prepared by: Doug Wooliver, Administrative Attorney Phone 463-4750
 Division Alaska Court System Date/Time 3-2-06 @ 1:00 pm
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/2/2006
 Agency Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 249(JUD)
 (S) Publish Date: 3/3/06

Revision Date/Time (Note if correction): 3/2/06/ 9:45 a.m. Dept. Affected: Administration
 Title: An Act relating to criminal justice information RDU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: Sen. French
 Requester: (S) JUD Component No.: 1831

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill adds new information to the list of information that must be reported by certain agencies. It is not expected to have a fiscal impact of the operations of the Agency.

Prepared by: Quinlan Steiner, Director Phone (907) 334-4414
 Division: Public Defender Agency Date/Time 3/2/06 9:45 a.m.
 Approved by: Mike Tibbles, Deputy Commissioner Date 3/2/2006
 Agency: Administration

SB

261

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 261
 (S) Publish Date: 2/01/06

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title Highway Safety Corridors RDU Administration & Support
 Component Transportation Management
 And Security
 Sponsor House Rules/Senate Rules
 Requester Governor Component No. 2607

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	5.0					
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0	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	5.0	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	5.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Maintenance and operations staff estimate the cost for materials for re-signing a designated corridor to be \$5,000 per corridor. This includes new signs for each end of the corridor alerting the driving public that they are entering a double fine safety corridor, and replacement signs for the speed limit signs throughout the corridor, which would include the double fine notice. Installation costs, including personnel and equipment, would be absorbed within existing M&O budgets.

Prepared by: John Merly
 Division: Legislative Liaison, DOT&PF
 Approved by: Mike Barton
 Agency: Commissioner, DOT&PF

Phone 465-8994
 Date/Time 1/30/06 10:00 AM
 Date 1/30/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 261
 (S) Publish Date: 2/1/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title: "An Act relating to the designation of traffic safety corridors; relating to the bail or fine for..." RDU: Alaska State Troopers
 Component: AST Detachments
 Sponsor: Rules Committee
 Requester: Governor Component No.: 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (FY2006) 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 will create traffic safety corridors and provide enhanced fines or bail amounts related to motor vehicle traffic offenses committed within a traffic safety corridor. This proposed legislation will also allow the legislature to appropriate 50% of the fines for offenses committed in this corridor. These funds will be accounted for separately and go towards highway safety programs administered by the Department of Transportation and Public Facilities.

The enforcement of law applicable to motor vehicles within the traffic safety corridors will be enforced by using the existing assets currently available within the division of the Alaska State Troopers. There will be no fiscal impact on the Department of Public Safety.

Prepared by: Lieutenant James Helgoe Phone 907-269-4532
 Division: Alaska State Troopers Date/Time 1/27/06 1:35 PM
 Approved by: Commissioner William Tandeske Date 1/27/2006
 Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSSB 261(FIN)
 (S) Publish Date: 3/22/06

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Regulation of Highways; Traffic Offenses RDU Alaska Court System
 Component: Trial Courts
 Sponsor Senate Rules by Request of the Governor
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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						
1007 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 (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of CSSB 261(TRA).

Prepared by: Doug Wooliver, Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 3/17/06 @ 8:00 am
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/17/2006
 Agency: Alaska Court System

Dear President Stevens:

Under the authority of art. III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the designation of traffic safety corridors; and relating to the bail or fine for an offense committed in a traffic safety corridor and to separately accounting for such fines.

This bill would authorize the Department of Transportation and Public Facilities to designate a portion of a highway to be a traffic safety corridor by posting signs at the beginning and end of the corridor. The designation would be made to promote traffic safety in that area.

The Alaska Supreme Court and each municipality would be required to provide that the scheduled amount of a fine or bail for a motor vehicle or traffic offense in a traffic safety corridor would be double the amount of the fine or bail if the offense had not been committed in a traffic safety corridor.

The provisions of AS 28.05.151(d) and AS 28.40.070 currently provide for double fines or bail for motor vehicle or traffic offenses in areas designated as highway work zones. These provisions would be amended by adding references to traffic safety corridors.

The bill also would provide for separate accounting for fines collected for traffic safety corridor offenses, and for appropriation of 50 percent of those collected fines to the Department of Transportation and Public Facilities, highway safety planning agency, for highway safety programs.

The bill would have an immediate effective date so that traffic safety corridors could be designated as soon as possible.

I urge your prompt and favorable action on this measure.

Sincerely yours,

Frank H. Murkowski
Governor

SAFETY ZONE

What is a Traffic Safety Corridor?

A safety corridor is a designated "safety zone", similar to a school zone or a work zone. Candidate roads have a high rate or concentration of fatal and severe injury crashes. The purpose of designating a zone is to reduce the rate or concentration of fatal and severe injury crashes. There may be a need to target reckless, intimidating, and aggressive driving, as well as drunk driving (TRIAD). Head-on collisions, unsafe passing or unsafe speeds are some characteristics. Other factors include falling asleep, medications and driver inexperience.

Oregon built one of the earliest programs over ten years ago. They have successfully designated corridors, reduced crashes, and eventually decommissioned them. Success requires a concerted effort of increased education, enforcement, and engineering (Three E's). Ohio has a model program for safety zone enforcement planning and daily duties.

Several other states have begun safety corridor programs. Typical elements include:

- Short two-lane, rural highway segments - 10 to 20 miles
- Focus on a few problematic highways
- Double fines and/or double points legislation
- Funding targeted, sustained highway patrol
- Expedite incident response
- Target TRIAD drivers, reduce driver frustration
- Quick, affordable road safety devices - special signs, centerline rumble strips
- Repeated media campaigns to educate drivers
- Investing in longer term, higher cost major road improvements
- Decommissioning to make efforts available elsewhere

Safety corridor efforts can last for years until major improvements can be put in place. Limited resources are focused on a few key roadways where the "three E's" can be brought to bear. Best results are in areas where efforts reach familiar returning drivers.

DOUBLE FINES