

11830

SENATE

JUDICIARY

0072

1           **Sec. 47.12.140. Court dispositional order.** In making its dispositional order  
2 under AS 47.12.120(b)(1) - (3) and (6) [(5)] and (j), the court shall

3                   (1) consider both the best interests of the minor and the interests of the  
4 public, and, in doing so, the court shall take into account

5                           (A) the seriousness of the minor's delinquent act and the  
6 attitude of the minor and the minor's parents toward that act;

7                           (B) the minor's culpability as indicated by the circumstances of  
8 the particular case;

9                           (C) the age of the minor;

10                          (D) the minor's prior criminal or juvenile record and the  
11 success or failure of any previous orders, dispositions, or placements imposed  
12 on the minor;

13                          (E) the effect of the dispositional order to be imposed in  
14 deterring the minor from committing other delinquent acts;

15                          (F) the need to commit the minor to the department's custody or  
16 to detain the minor in an institution or other suitable place in order to prevent  
17 further harm to the public;

18                          (G) the interest of the public in securing the minor's  
19 rehabilitation; and

20                          (H) the ability of the state to take custody of and to care for the  
21 minor; and

22                   (2) order the least restrictive alternative disposition for the minor; for  
23 purposes of this paragraph, the "least restrictive alternative disposition" means that  
24 disposition that is no more restrictive than is, in the judgment of the court, most  
25 conducive to the minor's rehabilitation taking into consideration the interests of the  
26 public.

27 \* Sec. 15. AS 47.12.300(a) is amended to read:

28           (a) The court shall make and keep records of all cases brought before it.

29           Notwithstanding other provisions of this section, the amount of unpaid restitution  
30 ordered under AS 47.12.120(b) owed by an individual 18 years of age or older,  
31 together with the identity of the individual, is a public record.

1 \* Sec. 16. AS 47.12.300(e) is amended to read:

2 (e) The court's official records prepared under this chapter and not made  
3 public under this section are confidential and may be inspected only with the court's  
4 permission and only by persons having a legitimate interest in them. A foster parent is  
5 considered to have a legitimate interest in those portions of the court's official records  
6 relating to a child who is already placed with the foster parent or who is recommended  
7 for placement with the foster parent. A person with a legitimate interest in the  
8 inspection of a confidential record maintained by the court also includes a victim who  
9 suffered physical injury or whose real or personal property was damaged as a result of  
10 an offense that was the basis of an adjudication or modification of disposition. If the  
11 victim knows the identity of the minor, identifies the minor or the offense to the court,  
12 and certifies that the information is being sought to consider or support a civil action  
13 against the minor or against the minor and the minor's parents [OR GUARDIAN]  
14 under AS 34.50.020, the court shall, subject to AS 12.61.110 and 12.61.140, allow the  
15 victim to inspect and use the following records and information in connection with the  
16 civil action:

17 (1) a petition filed under AS 47.12.040(a) seeking to have the court  
18 declare the minor a delinquent;

19 (2) a petition filed under AS 47.12.120 seeking to have the court  
20 modify or revoke the minor's probation;

21 (3) a petition filed under AS 47.12.100 requesting the court to find that  
22 a minor is not amenable to treatment under this chapter and that results in closure of a  
23 case under AS 47.12.100(a); and

24 (4) a court judgment or order entered under this chapter that disposes  
25 of a petition identified in (1) - (3) of this subsection.

26 \* Sec. 17. AS 47.12.315(e) is amended to read:

27 (e) The department or an agency may not release information about a minor  
28 under this section if the offense allegedly committed by the minor on which the  
29 information is based occurred before January 1, 1998. The authority to release  
30 information under this section is limited to five years from the date the department or  
31 other agency is first required or authorized to make the disclosure. However, the

1 limitation of this section does not apply if the department or other agency determines  
2 that, during the five-year period, the minor

3 (1) has knowingly failed to make all restitution payments required of  
4 the minor by AS 47.12.060(b) or 47.12.120(b)(4) or (5); or

5 (2) has committed a crime punishable as a felony.

6 \* Sec. 18. AS 47.12.450(b) is amended to read:

7 (b) The commissioner may recognize an entity organized for the purpose of  
8 providing community mediation services as a community dispute resolution center to  
9 serve as a center to resolve disputes between minors and victims. Before extending  
10 recognition under this subsection, the commissioner shall determine that the bylaws of  
11 the entity set out standards and procedures

12 (1) for filing requests for dispute resolution services with the center  
13 and for scheduling mediation sessions participated in by the parties to the dispute;

14 (2) to ensure that each dispute mediated meets the criteria for  
15 appropriateness for mediation and for rejecting disputes that do not meet the criteria;

16 (3) for giving notice of time, place, and nature of the mediation session  
17 to the parties, and for conducting mediation sessions that comply with the provisions  
18 of this section;

19 (4) to ensure that participation by all parties is voluntary;

20 (5) for obtaining referrals from public and private bodies;

21 (6) for providing mediators who, during the dispute resolution process,  
22 may not make decisions or determinations of the issues involved, but who shall  
23 facilitate negotiations by the participants themselves to achieve a voluntary resolution  
24 of the issues;

25 (7) for communicating to the agency making a referral under  
26 AS 47.12.040(a)(1)(A) or the court making a referral under AS 47.12.120(b)(4)(A) or  
27 (5)(A), as appropriate, the following:

28 (A) notice that the minor and victim have been unable to enter  
29 into a written agreement under (d)(2) of this section or that the minor or victim  
30 has withdrawn from mediation as authorized by (f) of this section;

31 (B) notice that the minor and victim have entered into a written

1 agreement under (d)(2) of this section; the center shall transmit a copy of the  
2 agreement to the agency or the court, as appropriate;

3 (C) notice that the minor has failed to perform fully the minor's  
4 obligations under the written agreement under (d)(2) of this section;

5 (D) notice that the minor has successfully completed all that is  
6 required of the minor under the provisions of the written agreement under  
7 (d)(2) of this section; and

8 (8) for informing and educating the community about the community  
9 dispute resolution center and encouraging the use of the center's services in  
10 appropriate cases.

11 \* Sec. 19. AS 34.50.020(d) is repealed.

12 \* Sec. 20. The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 INDIRECT COURT RULE AMENDMENT. AS 35.50.020(h), as added by sec. 7 of  
15 this Act, amends Rule 60, Alaska Rules of Civil Procedure, relating to modifications of  
16 payment schedules set in actions involving liability for the knowing or intentional acts of  
17 unemancipated minors.

18 \* Sec. 21. The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

20 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application  
21 of it to any person or circumstance, is held invalid, the remainder of this Act and the  
22 application to other persons or circumstances are not affected.

# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSSB10-LAW-C&S-1-18  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time 2/7/06 11:50 am Dept. Affected: LAW  
Title "An Act relating to civil liability for damage to or destruction of property by minors; relating to court revocation.." RDU CIVIL  
Sponsor Senators Guess and Dyson Component Collections and Support  
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	96.7	96.7	96.7	96.7	96.7	96.7
Travel	0.2	0.2	0.2	0.2	0.2	0.2
Contractual	10.9	10.9	10.9	10.9	10.9	10.9
Supplies	1.4	1.4	1.4	1.4	1.4	1.4
Equipment	7.3	0.8	0.8	0.8	0.8	0.8
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>116.5</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	116.5	110.0	110.0	110.0	110.0	110.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>116.5</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>	<b>110.0</b>

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 2007 budget proposal:

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

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

This bill makes a number of changes to the process of collecting restitution owed by juveniles in criminal cases. The Collections unit collects restitution owed to victims. Currently, a juvenile offender and his/her parents all have joint and several liability when it comes to collecting debt owed to victims. This bill would change that by making the juvenile solely responsible for the first \$5,000 of restitution owed, making the parents responsible for the next \$15,000 owed, then making the juvenile responsible for any additional amount in property destruction cases. Furthermore, it allows the court to set a payment plan. These changes will be extremely burdensome to implement and will serve to reduce the amount of restitution or debt that can be collected. It will be burdensome because it limits the flexibility the Department of Law has to work with the debtor in undertaking bank sweeps and wage garnishments. The annual Permanent Fund Dividend garnishment would be much more time intensive.

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
Division: Administrative Services Division Date/Time 2/7/06 11:50 AM  
Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 2/7/2006  
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

BILL NO. CSSB10

**ANALYSIS CONTINUATION**

because it will require a review of each separate payment plan to determine who the court allows garnishment from and who should not be garnished. Unless the court included a party in the payment plan, Law would have to eliminate that debtor from the garnishment. Any obligor that defaults on payment will require Law to file a notice of default and request for writ of execution before Law can do a bank sweep or wage garnishment. The current database Law uses to track obligations is not now set up to track whether a PFD garnishment is allowed or not. That is a further modification that would be necessary to implement this legislation. This assignment of particular financial responsibility in this bill has the potential to drag the collection of restitution out over a very long time and as a result, become more difficult as the individuals involved move away and default on the debt. The collections unit currently has 356 open juvenile restitution files. 124 or roughly one-third of them are over \$5,000

In accordance with the FY 2007 timekeeping and billing calculation, the Department of Law estimates that an additional paraprofessional position will be needed to implement the additional complexities this legislation would add to the current restitution and collection process. One time costs for furnishings and equipments in the amount of \$6,500 are requested for the initial year of funding.

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSSB10-LAW-T&WC-2-3  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LA.V  
Title "An Act relating to civil liability for damage to RDU CIVIL  
or destruction of property by minors..." Component Torts and Workers' Compensation  
Sponsor Senators Guess and Dyson  
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	200.0	200.0	200.0	200.0	200.0	200.0
Travel	0.7	0.7	0.7	0.7	0.7	0.7
Contractual	19.5	19.5	19.5	19.5	19.5	19.5
Supplies	3.5	3.5	3.5	3.5	3.5	3.5
Equipment	14.2	1.2	1.2	1.2	1.2	1.2
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>237.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Interagency Receipts	237.9	224.9	224.9	224.9	224.9	224.9
<b>TOTAL</b>	<b>237.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>	<b>224.9</b>

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 2007 budget proposal:

**POSITIONS**

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

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

This bill makes a number of complex changes to existing law regarding juvenile rights and responsibilities. This fiscal note addresses the changes made to AS 34.50 and AS 47.12 that would cause the state to be liable, in the same way that parents would be, for restitution related to property destruction committed by a juvenile while the juvenile was in state custody.

The Department of Law state foresees that it will be required to defend against many of these claims." Additionally, if an injured party recovers compensation through insurance, this bill provides a potential avenue for the insurers to litigate against the state to try to recoup what they paid out to their insureds or third parties. This fiscal note anticipates an additional caseload equivalent to as much as one attorney and a half-time para-professional to handle matters that would arise if this legislation were to pass. The source of funds for this fiscal note is interagency receipts that would be paid to the

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
Division: Administrative Services Division Date/Time 2/7/06 3:29 PM  
Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 2/7/2006  
Agency: Department of Law

**FISCAL NOTE**

**STATE OF ALASKA  
2006 LEGISLATIVE SESSION**

**BILL NO. CSSB10**

**ANALYSIS CONTINUATION**

Department of Law from the Department of Administration, Division of Risk Management's Catastrophic Reserve Fund.

A further fiscal impact, which is not reflected in any fiscal note, will be the increase in amounts the state will be seeking to pay for damages or settlements in the annual supplemental appropriation bill. These additional requests will come about because of the additional liability to the state for acts committed by juveniles in state custody (children in foster care, institutionalized juveniles, and certain other instances where children are at large, but are technically in state custody). Also not included in a fiscal note will be the further depletion of the Catastrophic Reserve Fund to pay for additional legal support reflected in this fiscal note. The impact of that will also be felt in increases to the annual supplemental appropriation bill to pay for damages or settlements, a portion (typically 20%) of which are currently paid from the Catastrophic Reserve.

Calculation of this fiscal note is in accordance with the Department of Law's approved timekeeping and billing rate for FY 2007. The rate recovers personal services costs for a new attorney and overhead costs such as leased space, computer network and telephones, offices supplies, equipment depreciation and support staff. One-time costs of \$6,500 are included in the first year and eliminated thereafter. The Department of Law prefers not to add part-time positions, so two full-time positions are requested.

# FISCAL NOTE

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

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

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

Title PROPERTY DAMAGE BY MINORS, MINORS  
DRIVING AND RESTITUTION

RDU Juvenile Justice  
 Component Probation Services

Sponsor GUESS

Requester SENATE (JUD)

Component No. 2134

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

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

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

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (0)</b>						
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: \_\_\_\_\_

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 intent of this bill is to allow civil courts, juvenile courts and the department (through informal adjustment) to hold minors and parents financially responsible for the full amount of the damage when juveniles commit property offenses, especially vandalism. In addition, it adds the requirement to revoke a juvenile's driver's license when s/he has been adjudicated (or informally adjusted) of any misdemeanor, felony or similar municipal violation. Further, the bill sets a length of time for license revocation, including an expanded length of time for revocation when there is repeat or habitual minor consuming, in possession or control, whether the offense is handled formally or informally adjusted.

We do not anticipate that this bill will have a budgetary impact for the Division of Juvenile Justice.

Prepared by: Patty Ware, Director  
 Division Juvenile Justice  
 Approved by: Karleen Jackson, Commissioner  
 Agency Department of Health and Social Services

Phone 465-2112  
 Date/Time 01/18/2006  
 Date 01/19/2006



**STATE OF ALASKA  
OFFICE OF THE GOVERNOR**

**BILL ANALYSIS**

<b>DEPARTMENT</b> Health & Social Services	<b>DIVISION</b> Finance and Management Services	<b>BILL NUMBER</b> CS SB 10 (HES)	<b>SPONSOR</b> GUESS
<b>SHORT TITLE OF BILL</b> PROPERTY DAMAGE BY MINORS, MINORS DRIVING AND RESTITUTION			
<b>DEPARTMENT POSITION</b> Support with proposed amendments			
<b>PREPARED BY</b> Karen Forrest	<b>DATE</b> 01/13/2006	<b>COMMISSIONER'S SIGNATURE</b> Karleen Jackson	<b>DATE</b> 01/19/2006

**SUMMARY**

<b>OTHER AGENCIES AFFECTED BY BILL</b> Department of Law Alaska Court System Department of Administration Division of Motor Vehicles	<b>CONSTITUENT GROUP(S) AFFECTED BY BILL</b> Victims, Juveniles, Parents, Guardians, Schools
<b>ORGANIZATIONAL SUPPORT FOR BILL</b> Unknown	<b>ORGANIZATIONAL OPPOSITION TO BILL</b> Unknown

**FISCAL IMPACT**     NONE     FISCAL NOTE ATTACHED

**BACKGROUND/LEGISLATIVE INTENT**

The intent of this bill is to allow civil courts, juvenile courts and the Dept. (through informal adjustment) to hold minors and parents financially responsible for the full amount of damage when juveniles commit property offenses, especially vandalism. In addition, it adds the requirement to revoke a juvenile's driver's license when s/he has been adjudicated (or informally adjusted) of any misdemeanor, felony or similar municipal violation. Further, the bill sets a length of time for license revocation, including an expanded length of time for revocation when there is repeat or habitual minor consuming, in possession or control, whether the offense is handled formally or informally adjusted.

**ANALYSIS OF BILL/PROGRAM EFFECTS**

This bill expands AS 04.16.050 (Possession, control, or consumption by persons under the age of 21) to allow for a greater length of time of driver's license revocation if a juvenile is adjudicated of repeat or habitual minor consuming, in possession or control. It also expands AS 28.15.185 (Court revocation of a minor's license to drive) to allow for license revocation of youth age 13-17 when adjudicated for any misdemeanor, felony or similar municipal violation; whereas current statute revokes for an offense involving the illegal use or possession of a firearm or misconduct involving a controlled substance (age 13-20). In addition, Title 28 is revised to set the length of time of revocation up to two years (or 18 yrs of age), dependent on whether the youth is adjudicated for a misdemeanor, felony, or similar municipal violation and whether it is a first or second offense.

**AMENDMENTS PROPOSED**

Delete proposed language to AS 28.15.185(a)(2), AS 47.12.060(b)(5) and AS 47.12.120(k) which propose driver's license revocations for formally and informally adjusted felonies and misdemeanors. (First choice).

OR Limit driver's license revocations to only felony cases that have been adjudicated.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

## BILL ANALYSIS

STATE OF ALASKA  
2006 LEGISLATIVE SESSION  
ANALYSIS CONTINUATION

BILL NO. CS SB 10 (HES)

Civil statutes, 35.50.020(b) would be amended so as to set amounts of damages and court costs minor and parents would be severally responsible for when a juvenile has damaged or destroyed real or personal property. The youth would be liable for the first \$5,000 in damages, the parents liable for the next \$15,000 and the youth liable for the total damages beyond the parent's \$15,000. This sets a civil cap on parental responsibility for damages that does not exist in the juvenile delinquency system and adds civil liability for potentially large amounts on youth into adulthood, including those who may have limited ability to pay. It does not allow a court to consider a youth's ability to pay. Placing the civil responsibility on youth and not parents may serve to limit recovery of damages by victims.

Amends AS 47.12 Delinquent Minors statutes to revise the informal juvenile process by increasing the length of license revocation for habitual minor consuming. The bill significantly changes the nature of informal adjustment by requiring mandatory license revocation for all informal adjustments on any level of offense, whether misdemeanor or felony. This requirement is not limited to property crimes. It creates a requirement that all informal adjustments for property crimes must include restitution for damages and requires notice that informal adjustment is not completed until all restitution is paid.

This bill sets specific levels of restitution that the juvenile and parent are responsible for, as proposed in the civil statute above and prohibits the Department from considering a youth's ability to pay under informal adjustment. Parents of runaways, hard-to place children and legal guardians other than parents are exempted from liability. Again, limiting parental responsibility may limit the amount of restitution actually paid to victims over time. It is unlikely to have any other impact on the informal juvenile process since most juveniles responsible for larger property damages are handled through the formal court process.

AS 47.12.120 Judgments and orders is amended to create separate restitution orders in the formal court process for crimes against a person and property offenses. It again exempts parents of runaways, hard-to-place youth and legal guardians from liability in property offenses. Courts are required to revoke the drivers license for an extended period of time for youth adjudicated of habitual minor consuming, possession or control or any other misdemeanor or felony. New subsections are proposed to require restitution for damages for property offenses (again, youth and parent liability as set out with above limits) with a prohibition to consider ability to pay.

The bill requires a restitution payment schedule be set in informal and formal processes. Setting a precise payment schedule may be cumbersome and reduce a victim's ability to collect damages if a payment is not yet due. In the past, there may have been instances of PFD's not being encumbered because a particular payment on a set payment schedule was not yet due.

The proposed license revocation in sections AS 28.15.185(a), AS 47.12.060(b) and AS 47.12.120(k) of the bill is extremely broad and not linked to either the

## BILL ANALYSIS

STATE OF ALASKA  
2006 LEGISLATIVE SESSION  
ANALYSIS CONTINUATION

BILL NO. CS SB 10 (HES)

seriousness of an offense or to the level of decision-making within the existing juvenile system. Thus, a youth who has committed a minor property crime, poses a low level of risk to reoffend and handled in the system through an informal adjustment process is treated in the same manner as a youth committing a serious crime who has been adjudicated delinquent via the formal court process due to the much higher level of risk. The Division has spent the past few years focusing and investing heavily in the use of research-based approaches to work with youth, including adopting a new risk-need assessment tool, to ensure that case decisions are made on the basis of data. Legislation that imposes far-reaching punitive measures without regard to whether the proposal has been linked to reduction in offenses is inconsistent with the mission of the division and the approach adopted in the past few years. Additionally, the Department has concerns that loss of license for the majority of juvenile offenders, again not related to the offense, will reduce the likelihood of youth success in the community, which is intimately linked to their ability to work. For many youth, this requires a license to get them to and from the job site. Finally, given that the focus of the bill is on maximizing restitution, it is unclear how this will occur when the primary source of income for youth is working, which again, normally requires a vehicle.



ALASKA STATE LEGISLATURE  
SENATOR GRETCHEN GUESS  
SENATOR FRED DYSON

## Sectional Explanation

### CS Senate Bill 10:

*"An Act relating to civil liability for damage to or destruction of property by minors; relating to court revocation of a minor's privilege to drive, relating to restitution for certain acts of minors; and amending Rule 60, Alaska Rules of Civil Procedure."*

#### Driver's License Provisions

**Sections 1-4:** Amends current statute on the revocation of a minor's driver's license to include all misdemeanor and felony offenses rather than just offenses involving misconduct with a controlled substance and illegal use or possession of a firearm.

Except for the existing statutes on repeat and habitual minor consumption or possession of alcohol, the court will revoke a minor's license for up to 90 days for a first misdemeanor, up to one year for subsequent misdemeanors, up to 180 days for a first felony, and up to two years or age 18 (whichever is longer) for subsequent felonies.

**Section 5:** Amends current statute allowing court issuance of a provisional driver's license to enable a person to earn a livelihood.

#### Provisions on Civil Liability for a Minor's Destruction of Property

**Section 6:** Amends current statute on civil liability for the destruction of property by unemancipated minors with the following provisions.

- For any knowing or intentional act by a minor that damages or destroys property, the child is liable for the first \$5,000 of harm, parents are liable for the next \$15,000 of harm and the child is liable for any amount remaining. These specified monetary amounts will be adjusted to account for inflation.
- The amount of parental restitution will be apportioned between the parents without regard to legal custody but with due consideration for the actual care and custody of the minor provided by each parent.
- This section does not apply to shoplifting, which is covered in AS 09.68.110.

**Section 7:** Creates the following two new subsections on payment of civil liability for the destruction of property by unemancipated minors.

- The court will set a payment schedule for each individual liable for damages according to their ability to make payments. The payment schedule will separately address payments the minor may have to make after turning 18.
- The court may order an individual who is liable for damages to apply for a Permanent Fund Dividend.
- The court may modify these payment schedules if financial circumstances change.
- *Note exemptions from liability for legal guardians other than parents, persons other than parents with legal custody, parents of a runaway or missing minor, and adoptive parents of a hard-to-place children already exist in this statute.*

#### **Permanent Fund Dividend Provisions**

**Section 8:** Amends current statute to clarify that 100 percent of a parent's or minor's PFD can be taken to satisfy their required debt under this bill. *Note current law allows taking 100 percent of PFDs to satisfy restitution, but isn't clear whether it applies to minors as well as parents.*

#### **Provisions on Informal Juvenile Justice Process for a Minor's Destruction of Property**

**Section 9:** Amends current statute on the informal juvenile justice process to distinguish between crimes against a person and all other crimes (crimes against property), and to reference the driver's license provisions in sections three and four of this bill. For crimes against property, section nine creates the requirement for notice that an informal adjustment is not successfully completed until restitution is paid.

**Section 10:** Creates new subsections on informal adjustments for a minor's crimes against property, specifying the following.

- Informal adjustment must include full restitution for damages resulting from the act of a minor, unless expressly waived by the victim.
- In determining the amount of restitution, the department may not consider the minor's or parent's ability to pay and must take into account the public policy that favors requiring compensation for damages and injury that results from criminal acts, the financial burden placed on the victim, and the amount and type of restitution that has already been made for the act.
- The child is liable for the first \$5,000 of harm, parents are liable for the next \$15,000 of harm, and the child is liable for any amount remaining. These specified monetary amounts will be adjusted to account for inflation.

- The amount of parental restitution will be apportioned between the parents without regard to legal custody but with due consideration for the actual care and custody of the minor provided by each parent.
- Parents are liable only if they have legal custody when the act was committed. This section exempts from liability legal guardians other than parents, persons other than parents with legal custody, parents of a runaway or missing minor, and adoptive parents of a hard-to-place children. *Note substantially similar exemptions currently exist in law regarding civil liability for a minor's destruction of property and in other areas of juvenile delinquency law.*
- The court will set a payment schedule for each individual liable for damages according to their ability to make payments and may modify these payment schedules if financial circumstances change. The payment schedule must provide for payments adequate to fulfill the total restitution amount by the time the minor turns 18. *Note enforcement of agreements made in the informal adjustment process relies on jurisdiction for criminal adjudication. In other words, failure to comply with the terms of an informal agreement results in criminal adjudication. Consequently, collection of restitution specified in an informal adjustment would be impossible after the offender's 18<sup>th</sup> birthday and payment schedules must provide for full payment by age 18. If this cannot be accomplished (e.g. offender is age 17.5 at the time of the vandalism), the informal adjustment process is not an option and the case will be handled through formal criminal adjudication, where the payment plan can continue long after the 18<sup>th</sup> birthday because the court retains jurisdiction to collect payments.*
- The court may order an individual who is liable for damages to apply for a Permanent Fund Dividend.

### **Provisions on Criminal Adjudication for a Minor's Destruction of Property**

**Section 11:** Amends current statute on criminal adjudication of a minor to distinguish between crimes against a person and all other crimes (crimes against property). For crimes against property, section 11 creates subsections with the following provisions.

- The court will order the minor and the minor's parent to make suitable restitution (see section 13) and may not refuse to make an order of restitution.
- Exempts from liability legal guardians other than parents, persons other than parents with legal custody, parents of a runaway or missing minor, and adoptive parents of a hard-to-place children. *Note substantially similar exemptions currently exist in law regarding civil liability for a minor's destruction of property and in other areas of juvenile delinquency law.*
- The court may order the minor and the minor's parent to submit financial information for the purpose of establishing the amount of restitution payments

and enforcing an order of restitution. *Note section 13 prohibits consideration of ability to pay in determining the total amount of restitution.*

**Section 12:** Amends current statute on criminal adjudication to include the driver's license provisions in sections three and four of this bill.

**Section 13:** Creates new subsection on criminal adjudication for a minor's crimes against property.

- Adjudication of a delinquent minor must include restitution for damages resulting from the act of a minor, unless expressly waived by the victim.
- In determining the amount of restitution, the court may not consider the minor's or parent's ability to pay and must take into account the public policy that favors requiring compensation for damages and injury that results from criminal acts, the financial burden placed on the victim, and the amount and type of restitution that has already been made for the act.
- The child is liable for the first \$5,000 of harm, parents are liable for the next \$15,000 of harm, and the child is liable for any amount remaining. These specified monetary amounts will be adjusted to account for inflation.
- Parents are liable only if they have legal custody when the act was committed. *Note the other exemptions for legal guardians other than parents, persons other than parents with legal custody, parents of a runaway or missing minor, and adoptive parents of hard-to-place children appear in section 11.*
- The amount of parental restitution will be apportioned between the parents without regard to legal custody but with due consideration for the actual care and custody of the minor provided by each parent.
- The court will set a payment schedule for each individual liable for damages according to their ability to make payments and may modify these payment schedules if financial circumstances change. The payment schedule will separately address payments the minor may have to make after turning 18.
- The court may order an individual who is liable for damages to apply for a Permanent Fund Dividend.

#### **Miscellaneous Provisions**

**Section 14:** Makes a conforming change to current statute on court dispositional orders.

**Section 15:** Amends current statute on court records to require the amount of unpaid restitution ordered during the criminal adjudication process and still owed by an individual age 18 or older to be public record.

- Section 16:** Makes a conforming change to current statute on court records.
- Section 17:** Makes a conforming change to current statute on court records.
- Section 18:** Makes a conforming change to current statute on community dispute resolution centers.
- Section 19:** Repeals existing statute on the civil liability of parents for the destruction of property by unemancipated minors. Language repealed reads as follows, "If a parent has an insurance policy that would compensate a claimant for civil damages described under (a) of this section, and the policy limits are in excess of \$15,000, civil damages may be recovered under (a) of this section in an amount not to exceed the policy limits or \$25,000, whichever amount is lower."
- Section 20:** The new subsection on civil actions created in section three of this bill amends Rule 60 of the Alaska Rules of Civil Procedure relating to modifications of payment schedules set in actions involving liability for the knowing or intentional acts of unemancipated minors.
- Section 21:** Severability. If any provision of this act is held invalid, the remainder of the act are not affected.

**SB**

**12**

# SENATE COMMITTEE REPORT

DATE: 4/15/05

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered

SENATE BILL NO. 12

## SB 12 LIMIT RELATIONS WITH CERTAIN NATIONS

"An Act relating to the prohibition or elimination of financial relationships with persons that conduct business in countries that support or ignore slavery and trafficking in persons."

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 # \_\_\_\_\_

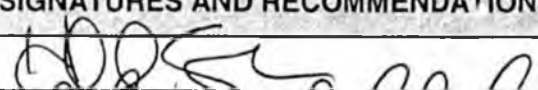
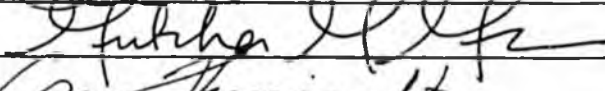
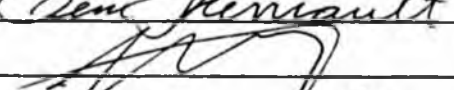
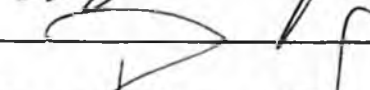
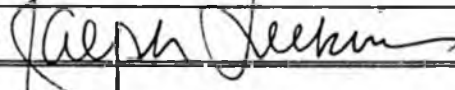
**NEW FISCAL NOTE(S):**

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

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



## SENATOR FRED DYSON

### SPONSOR STATEMENT

**SB 12—*“An Act relating to financial relationships with persons conducting business in or having headquarters in countries that support or ignore slavery and trafficking in persons.”***

Trafficking is considered modern-day slavery. The U.S. State Department believes that as many as 4 million people, mostly women and children, are trafficked for sexual or labor purposes each year, with as many as 1 million trafficked across national borders. Many are kidnapped or sold into bondage, and many others are tricked with false promises. This international plague is a \$7 billion industry, mainly interwoven in organized crime.

The federal government has recently began an aggressive campaign to combat trafficking in persons. The State Department ranks other countries according to their vigilance against—or apparent support of—trafficking. The Office to Monitor and Combat Trafficking in Persons updates these rankings in its Trafficking in Persons Report, listing the countries with the most permissive climate for trafficking in Tier III. The federal government then imposes economic sanctions against countries in Tier III until those countries make anti-trafficking efforts.

Regarding the status of trafficking in Alaska, the Special Crimes Unit of the Anchorage Police Department reports that sex trafficking rings currently exist in Alaska. In some instances, law enforcement personnel have identified massage parlors that are part of a sex trafficking network that takes advantage of vulnerable women from Asia. Also, runaways are also lured into and then trapped into the sex trafficking industry. Sometimes, these women are shuttled back and forth with our Canadian neighbors.

SB 12 amends the state procurement code to allow the Legislature, the Court System, and the Executive Branch to develop provisions for prohibiting and eliminating financial relationships with organizations that are headquartered in countries with the most permissive climate for human trafficking. Alaskan agencies may also restrict relationships with organizations that conduct business in, but are not necessarily headquartered in, countries listed in Tier III. Finally, fiduciaries of state funds are restricted from making direct investments in these countries.

2004 Trafficking in Persons Report: <http://www.state.gov/g/tip/rls/tiprpt/2004/>

Office to Monitor and Combat Trafficking in Persons: <http://www.state.gov/g/tip/>

Trafficking Victims Protection Act of 2000: <http://www.state.gov/documents/organization/10492.pdf>

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: CSSB 12(STA)  
 (S) Publish Date: 4/15/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title A bill related to ...prohibition of financial ... RDU Centralized Administrative Services  
business in countries that support ... slavery Component Purchasing  
 Sponsor Governor  
 Requester \_\_\_\_\_ Component No. 60

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Various in all state agencies						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The bill is an Act relating to the prohibition or elimination of financial relationships with persons that conduct business in countries that support or ignore slavery and trafficking in persons. The bill encourages regulations to prohibit or eliminate financial relationships with organizations that conduct business in countries listed in Tier 3 of the most recent Trafficking in Persons Report published by the United States Department of State or other list of countries prepared by the United States Secretary of State under 22 U.S.C 7107(b)(1)(C).

Bill has zero fiscal impact.

Prepared by: Vern Jones, Chief Procurement Officer Phone 465-5684  
 Division: General Services Date/Time 2/7/05 11:36 AM  
 Approved by: Michael Tibbles, Deputy Commissioner Date 2/7/2005  
 Agency: Administration

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSSB 12(STA)  
(S) Publish Date: 4/15/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
Title: "An Act relating to the prohibition or BRU: Legislative Council  
elimination of financial relationships with persons that..." Component: Council and Subcommittees  
Sponsor: "Senators Dyson, Davis, French, Bunde..."  
Requestor: Senate State Affairs Component No. 783

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time					
Part-time					
Temporary					

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

This legislation has zero fiscal impact on the Legislative Affairs Agency. Any costs to amend the procurement procedures of the Legislature will be absorbed within existing budgets.

Prepared by: Karla Schofield, Deputy Director Phone 465-6626  
Division: Administrative Services Date/Time 2/4/05 9:50 AM  
Approved by: Pamela Varni, Executive Director Date 2/4/2005  
Agency: Legislative Affairs Agency



# FACTS ABOUT HUMAN TRAFFICKING

## What is human trafficking?

Trafficking in persons is modern-day slavery, involving victims who are forced, defrauded or coerced into labor or sexual exploitation. Annually, about 600,000 to 800,000 people—mostly women and children—are trafficked across national borders which does not count millions trafficked within their own countries.

People are snared into trafficking by many means. In some cases, physical force is used. In other cases, false promises are made regarding job opportunities or marriages in foreign countries to entrap victims.

## What impact does human trafficking have on the world?

Human trafficking is a multi-dimensional threat: it deprives people of their **human rights** and freedoms, it is a **global health risk**, and it fuels the growth of **organized crime**.

Human trafficking has a devastating impact on individual victims, who often suffer physical and emotional abuse, rape, threats against self and family, passport theft, and even death. But the impact of human trafficking goes beyond individual victims; it undermines the safety and security of all nations it touches.

## What is the United States doing to stop trafficking?

Trafficking impacts many nations, including the United States. That's why the U.S. Government has taken a number



*Convicted Macedonian trafficker*



*Abused children in South Asia*

of serious and significant actions to combat trafficking occurring at home. A few examples of American efforts include:

- Congress passed legislation so Americans who sexually prey on children abroad can be prosecuted and sentenced to as many as 30 years in prison.
- The Department of Justice has focused on increasing the number of trafficking victims rescued and the number of prosecutions and convictions of traffickers.
- The Department of Health and Human Services (HHS) is certifying trafficking victims so they may qualify for the same assistance available to refugees. HHS is also running a major public awareness campaign to alert victims in the U.S. that help is available through the hotline number 888.3737.888.
- The Department of Defense has implemented a zero-tolerance stand against any actions by Defense personnel that contribute to human trafficking and is instituting a service-wide mandatory training program.
- The Departments of Labor and Homeland Security, USAID, and other government agencies are executing action plans to combat human trafficking.

## What is the U.S. doing to help other countries?

Because human trafficking is transnational in nature, partnerships between countries are critical to win the fight against

modern-day slavery. The U.S. is reaching out to other countries in a number of important ways:

- In a speech to the United Nations General Assembly, President Bush raised the issue of human trafficking and asked leaders of the world to work together to end it.
- The State Department is working extensively with governments on action plans for prevention, protection of victims, and prosecution.
- Congress last year strengthened anti-trafficking legislation and provided more than \$70 million in funding worldwide for efforts to end slavery. The U.S. is providing money around the world for:
  - Rehabilitation and work training centers for victims
  - Special housing shelters for victims
  - Law enforcement training and legal reform assistance
  - Information and awareness campaigns
  - Voluntary repatriation for displaced victims
  - Training for immigration officials, medical personnel and social workers
  - Combating sex tourism
  - Rescuing victims from slave-like situations

#### What needs to be done?

When dealing with an issue of this importance and urgency, there is much to be done. The U.S. is asking governments to immediately take action to step up their anti-trafficking efforts:

- There is a critical need for **increased rescues of trafficking victims and prosecutions of traffickers.**
- People freed from slavery must be treated as **victims of crime, not criminals.**
- The **demand for modern-day slaves must be stopped.** This is not a victimless or harmless crime, and the public should be informed of the risks involved with it.

#### What are the Trafficking Victims Protection Act and the Trafficking in Persons Report?

Congress passed the Trafficking Victims Protection Act (TVPA) in 2000 and strengthened it in 2003. This law provides tools for the U.S. to combat trafficking in persons, both domestically and abroad.

One of the key components of the law is the creation of the *Trafficking in Persons Report*. The Department of State produces this annual report assessing government response in each country with a significant number of victims of severe forms of trafficking in persons. Countries in the annual report are rated in tiers, based on government efforts to combat trafficking.

#### What do the tiers of the Trafficking in Persons Report mean?

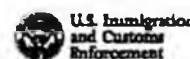
- **Tier 1:** Countries that fully comply with the act's minimum standards for the elimination of trafficking.
- **Tier 2:** Countries that do not fully comply with the minimum standards but are making significant efforts to bring themselves into compliance.
- **Tier 2 Watch List:** Countries on Tier 2 requiring special scrutiny because of a high or significantly increasing number of victims; failure to provide evidence of increasing efforts to combat trafficking in persons; or an assessment as Tier 2 based on commitments to take action over the next year.
- **Tier 3:** Countries that neither satisfy the minimum standards nor demonstrate a significant effort to come into compliance. Countries in this tier are subject to potential non-humanitarian and non-trade sanctions.

*For more information, please log on to the Web site of the State Department's Office to Monitor and Combat Trafficking in Persons at [www.state.gov/tip](http://www.state.gov/tip).*



# I'm not a tourist attraction

Stop child sex tourism.





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## Alaska suspects plead guilty in Russian sex trade case

WASHINGTON (CNN) -- The Justice Department has obtained guilty pleas from three men on charges of illicitly bringing Russian girls and women to work as nude dancers in Anchorage, Alaska.

The three are accused of fraudulently obtaining visas for two minors, age 16, and four older Russian women who were brought to the United States in December 2000.

Federal officials say the guilty pleas were entered Wednesday at the U.S. District Court in Anchorage.

The Immigration and Naturalization Service took custody of the women in January and gave them temporary legal immigration status while the case proceeds. The women are still in the United States.

The men -- Victor Nikolayevich Virchenko, Pavel Vasilievich Agafonov and Tony Kennard -- all pleaded guilty in federal district court to six counts of immigration fraud.

Kennard also pleaded guilty to two counts of transporting minors for illegal sexual activity. Agafonov and Virchenko pleaded guilty to one count of transporting minors for illegal sexual activity.

Kennard is a U.S. citizen, Agafonov is a naturalized U.S. citizen, and Virchenko is a Russian national.

The maximum statutory punishment is 15 years in custody and a fine of \$250,000 for each felony count of transporting minors for illegal sexual activity, and 10 years in custody and a fine of \$250,000 for each felony count of immigration fraud.

Sentencing for all three men is scheduled for August 24.

**Find this article at:**

<http://archives.cnn.com/2001/LAW/06/14/sex.trafficking>

Check the box to include the list of links referenced in the article.



United States Attorney's Office  
District of Alaska  
222 West 7th Avenue, #9  
Anchorage, Alaska 99513-7567

**FOR IMMEDIATE RELEASE**  
November 22, 2004

Contact: Frank Russo  
Assistant U.S. Attorney  
907-271-5071 / Fax: 271-2345

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Anchorage, Alaska - Anchorage businessman Josef F. Boehm, 60, pleaded guilty today to conspiring to provide crack cocaine to underage Anchorage and Mat-Su teenagers in exchange for sexual favors. Boehm pleaded guilty to the top charge in the indictment, conspiring to distribute over 50 grams of crack cocaine to persons under 21 years of age. Boehm also admitted to conspiring to commit the crime of sex trafficking of children. Under the terms of the agreement, Boehm may be sentenced to more than 11 years in jail. Under federal sentencing guidelines, there is no parole. Boehm also agreed to forfeit his Oceanview home, where many of the activities alleged in the indictment took place.

The agreement also requires that Boehm pay restitution in the amount of \$1.2 million dollars into a trust fund for the benefit of the victims of his criminal conduct. The trust fund will allow victims to be compensated for expenses related to drug treatment, counseling, and related expenses incurred as a result of their victimization at the hands of Boehm and his co-defendants. In addition, the trust fund can be used to pay for educational and professional training expenses for the victims, which would not have been otherwise available under federal statutes if Boehm had been convicted after trial. Boehm will be required to fund the trust on or before his sentencing, scheduled to take place on February 11, 2005. Co-defendants Allen Bolling, 40, Leslie J. Williams, 40, and Bambi Tyree, 23 have pled guilty and are scheduled to be sentenced on January 21, 2005.

"This plea agreement achieves the best of all possible worlds for the interests of justice and for the young victims in this case. Boehm will receive a substantial sentence without the risks associated with a lengthy trial and appeals, which Boehm has agreed to waive. Young victims also avoid the traumatic experience of having to testify about their exploitation, and will have prompt access to resources that will help them," said United States Attorney Tim Burgess.

Burgess added, "Usually, when people commit crimes, the best the criminal justice system can do is punish the offender and occasionally have him repay the out of pocket expenses of the victims. This plea not only does that, but attempts to give the victims future opportunities for treatment, counseling, and even an education."

The case was investigated by the Anchorage Police Department and the Federal Bureau of Investigation. The prosecution was a joint effort of the United States Attorney's Office and the Child Exploitation and Obscenity Section of the Department of Justice.

###

## TIER PLACEMENTS

### TIER 1

AUSTRALIA	FRANCE	MACEDONIA	SPAIN
AUSTRIA	GERMANY	MOROCCO	SWEDEN
BELGIUM	GHANA	THE NETHERLANDS	TAIWAN
CANADA	HONG KONG	NEW ZEALAND	UNITED KINGDOM
COLOMBIA	ITALY	NORWAY	
CZECH REPUBLIC	KOREA, REP. OF	POLAND	
DENMARK	LITHUANIA	PORTUGAL	

### TIER 2

AFGHANISTAN	CAMEROON	KYRGYZ REP.	SAUDI ARABIA
ALBANIA	CHILE	LATVIA	SINGAPORE
ANGOLA	CHINA	LEBANON	SLOVAK REP.
ARGENTINA	COSTA RICA	MALAYSIA	SLOVENIA
ARMENIA	EGYPT	MALI	SOUTH AFRICA
BAHRAIN	EL SALVADOR	MAURITIUS	SRI LANKA
BELARUS	FINLAND	MOLDOVA	SWITZERLAND
BENIN	THE GAMBIA	MOZAMBIQUE	TOGO
BOSNIA/HERZ.	GUINEA	NEPAL	UNITED ARAB EMIRATES
BRAZIL	HUNGARY	NICARAGUA	UGANDA
BULGARIA	INDONESIA	NIGER	UKRAINE
BURKINA FASO	IRAN	PANAMA	UZBEKISTAN
BURUNDI	ISRAEL	ROMANIA	
CAMBODIA	KUWAIT	RWANDA	

### TIER 2 WATCH LIST

AZERBAIJAN	GEORGIA	MALAWI	SERBIA-MONTENEGRO
BELIZE	GREECE	MAURITANIA	SURINAME
BOLIVIA	GUATEMALA	MEXICO	TAJKISIAN
CONGO, DEM. REP. OF	HONDURAS	NIGERIA	TANZANIA
COTE D'IVOIRE	INDIA	PAKISTAN	THAILAND
CROATIA	JAMAICA	PARAGUAY	TURKEY
CYPRUS	JAPAN	PERU	VIETNAM
DOMINICAN REP.	KAZAKHSTAN	PHILIPPINES	ZAMBIA
ESTONIA	KENYA	QATAR	ZIMBABWE
ETHIOPIA	LAOS	RUSSIA	
GABON	MADAGASCAR	SENEGAL	

### TIER 3

BANGLADESH	ECUADOR	NORTH KOREA	VENEZUELA
BURMA	EQUATORIAL GUINEA	SIERRA LEONE	
CUBA	GUYANA	SUDAN	



### **Trafficking in Persons Report** -[Report Home Page](#)

Released by the Office to Monitor and Combat Trafficking in Persons  
June 14, 2004

#### **VI. United States Government Efforts**

The U.S. Government condemns trafficking in persons and remains firmly committed to fighting this scourge and protecting victims who fall prey to traffickers. Our commitment to eradicate trafficking includes:

- Vigorously enforcing U.S. laws against all those who traffic in persons;
- Raising awareness at home and abroad about human trafficking and how it can be eradicated;
- Identifying, protecting, and assisting those victims exploited by traffickers;
- Reducing the vulnerability of individuals to trafficking through increased education, economic opportunity, and protection and promotion of human rights; and
- Employing diplomatic and foreign policy tools to encourage other nations, the UN and other multilateral institutions to work with us to combat this crime, draft and enforce laws against trafficking, and hold accountable those engaged in it.

#### **Trafficking Victims Protection Reauthorization Act of 2003**

In December 2003 Congress passed and President Bush signed the Trafficking Victims Protection Reauthorization Act, which enhanced the State Department's reporting of government efforts to combat modern-day slavery by:

- Providing new tools for addressing destination countries that may be turning a blind eye to trafficking;
- Making convictions and sentencing of traffickers as important as investigations and prosecutions in evaluating country efforts to eliminate trafficking;
- Requiring better statistical monitoring, providing greater access to critical law enforcement data related to trafficking; and
- Creating a Special Watch List.

#### **The PROTECT Act**

Another law was enacted in 2003 to give U.S. authorities better tools to combat international sex tourism and the commercial sexual exploitation of children, as well as domestic federal offenses of child abuse, child kidnapping, and child torture. In April 2003, the PROTECT Act (Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003) was passed by the Congress and signed into law by President Bush. The Act serves as a historic milestone for protecting children while severely punishing those who victimize young people. Of particular note, the PROTECT Act allows law enforcement officers to prosecute Americans who travel abroad and sexually abuse minors, without having to prove prior intent to commit illicit crimes. The law also strengthens the punishment of child sex tourists. If convicted, child sex tourists now face up to 30 years imprisonment, an increase from the previous maximum of 15 years. The PROTECT Act made several other changes to the law with a focus on protecting children from sexual predators, including: extending the statute of limitations for federal crimes involving the abduction or physical or sexual abuse of a child for the lifetime of the child; expanding the potential reach of federal sex trafficking prosecutions by extending federal jurisdiction to crimes committed in foreign commerce; establishing parallel penalty enhancements for the production of child pornography overseas; and, criminalizing actions to arrange or facilitate the travel of child sex tourists.

Other U.S. Government efforts and mechanisms to combat trafficking in persons include the annual Trafficking in Persons report; the President's Interagency Task Force to Monitor and Combat Trafficking in Persons; and, the Office to Monitor and Combat Trafficking in Persons in the U.S. Department of State.

#### **The Office to Monitor and Combat Trafficking in Persons ("TIP Office")**

The State Department's "TIP Office" is mandated to: combat and eradicate human trafficking by focusing worldwide attention on the international slave trade; assisting countries to eliminate trafficking; promoting regional and bilateral cooperation; supporting service providers and NGOs active in trafficking prevention and victim protection efforts. The TIP office also assists foreign governments in drafting or strengthening anti-trafficking laws and funds law enforcement and victim assistance training to foreign governments to ensure traffickers are fully investigated and prosecuted to final conviction.

The TIP Office supported more than 240 anti-trafficking programs in over 75 countries in fiscal year 2003. The types of assistance include the following: economic alternative programs for vulnerable groups; education programs; training for government officials and medical personnel; development or improvement of anti-trafficking laws; provision of equipment for law enforcement; establishment or renovation of shelters, crisis centers, or safe houses for victims; support for voluntary and humane return and reintegration assistance for victims; and support for psychological, legal, medical and counseling services for victims provided by NGOs, international organizations and governments.



#### **Other U.S. Agency Activities**

The TVPA also mandates that federally-funded or administered benefits and services, such as cash assistance, medical care, food stamps, and housing, be made available for certain non-citizen trafficking victims. During 2003, trafficking victims in the U.S. received information from federal authorities about the rights and protections available to them. The Departments of State, Justice, and Homeland Security have been implementing this mandate.

#### **Federal Law Enforcement Assistance**

Federal investigators from the Federal Bureau of Investigation, the Immigrations and Customs Enforcement Bureau (ICE), the Diplomatic Security Service, as well as other federal officials who encounter trafficking victims hand out a brochure describing a trafficking victim's rights and the protections available to him or her. ICE also operates a hotline for victims and non-governmental organizations to communicate directly with the ICE victim-witness assistance program. The ICE hotline number is 1-866-DHS-2ICE. Alternatively, the U.S. Department of Justice's Trafficking in Persons and Worker Exploitation Task Force hotline is 1-888-428-7581. In 2003, ICE provided its 25 field offices funds to purchase items to help assist trafficking victims. Funding was used for car seats to safely transport minor children of trafficking victims, clothing, personal hygiene items, bags for personal belongings, cots for children, and other needed items.

ICE retrofitted 25 cars with tinted glass so that investigators and victim-witness coordinators could transport victims, including trafficking victims, with confidentiality. ICE coordinated with its New York office to provide nationwide translation services for victims of trafficking in ICE investigations.

The Department of Health and Human Services (HHS) provides certification and eligibility letters for victims that allow them to access most benefits and services comparable to the assistance provided to refugees. In March 2004, a HHS-sponsored hotline for victims of trafficking, run by an NGO, was activated. The number is: 1-888-373-7888. In fiscal year 2003, HHS issued \$3.48 million to 15 organizations to help victims of trafficking with a range of services, including temporary housing, independent living skills, cultural orientation, and transportation needs, and for educational programs and legal assistance.

In fiscal year 2003, HHS provided 151 certifications and benefits eligibility letters, of which 145 were certification letters to adults and six were eligibility letters to child trafficking victims. Over 200 trafficking victims rescued in the Kil Soo Lee case are provided services by a HHS grantee. The case, prosecuted between 2001 and 2004, is the largest U.S. trafficking case to date, and involved Vietnamese and Chinese nationals trafficked to American Samoa.

The Department of Justice also met immediate needs of victims of trafficking in persons through witness assistance programs and services provided by the grantees of the Department of Justice's Office for Victims of Crime (OVC). In January 2003, the OVC awarded 12 grants totaling more than \$9.5 million to non-governmental organizations for the purpose of providing trafficking victims with comprehensive or specialized services, and to provide these grantees with training and technical assistance for program support. Grantee organizations must provide comprehensive services, including immediate housing.

Victims of trafficking often need legal assistance with immigration and other matters. Since the passage of the TVPA, the Legal Services Corporation must make available legal assistance to trafficking victims. The Legal Services Corporation is a private, non-profit corporation established by Congress which funds legal aid programs around the nation to help indigent Americans gain equal access to the civil justice system. The Legal Services Corporation grantees assisted a total of 81 victims nationwide during fiscal year 2003.

#### **Immigration Benefits**

There are two immigration benefits available through the TVPA to trafficking victims who meet certain eligibility requirements. Victims may be authorized "continued presence" to temporarily remain in the United States if federal law enforcement determines they are potential witnesses to trafficking.

Victims may also petition the Bureau of Citizenship and Immigration Services within the Department of Homeland Security to receive "T visas," which are available to victims who have complied with reasonable requests for assistance to investigate or prosecute acts of trafficking. Victims who receive T non-immigrant status may remain in the United States for three years, and can then apply for permanent residency.

As of September 30, 2003, the Department of Homeland Security had granted an estimated 374 continued presence requests. For trafficking victims that request repatriation, U.S. Government personnel assist in the repatriation process by liaising with foreign governments to facilitate the victim's return and to try to ensure that the victim is not trafficked again.

#### **Investigations and Prosecutions of Traffickers**

Human trafficking cases are among the most labor- and time-intensive matters undertaken by the Department of Justice. They often involve language barriers, multiple investigating agencies, overseas investigations, and in many cases, severe sexual or physical trauma to victims and witnesses, requiring the expertise of various professionals including rape counselors, psychiatrists, physicians, and child interview specialists.

As of April 2004, the Criminal Section of the Civil Rights Division had 153 open trafficking investigations – twice as many as compared with three years earlier. Over one-half of these investigations were initiated as a result of the "Trafficking in Persons and Worker Exploitation Task Force Complaint Line," 1-888-428-7581, established in February 2000. In fiscal years 2001 through 2003, the Department of Justice's Civil Rights Division and US Attorneys Offices initiated prosecutions of 110 traffickers, nearly a three-fold increase compared to the previous three fiscal

years. In fiscal years 2001 through 2003, the Department of Justice secured 77 convictions and guilty pleas, a 50 percent increase over the previous three years.

In *United States v. Kil Soo Lee*, the largest trafficking prosecution ever brought by the Department of Justice, the Civil Rights Division led a long and difficult investigation resulting in a 22-count indictment against five defendants charged with subjecting workers to involuntary servitude in a garment factory in American Samoa. The indictment, filed in federal court in Hawaii, charged that the defendants transported more than 200 Vietnamese and Chinese nationals, mostly young women, to work as sewing machine operators in a Daewoosa garment factory. The victims, some of whom were held for up to two years, were forced to work through extreme food deprivation, beatings, and physical restraint.

The victims were held in barracks on a guarded company compound, and were threatened with confiscation of their passports, deportation, economic bankruptcy, severe economic hardship to family members, false arrest, and personal injury. One victim had an eye gouged out by a defendant who struck her with a jagged pipe in order to punish her for refusing to comply with the defendants' orders. On August 31, 2001 two of the five defendants entered guilty pleas to conspiracy for their involvement in the scheme. On February 21, 2003, a jury convicted Lee, the factory owner and ringleader, on nearly all counts. Sentencing will occur in June 2004. The other two defendants, his subordinates, were acquitted. In April, 2002, 270 Vietnamese and Chinese workers who labored in the Daewoosa garment factory on American Samoa won an important legal victory. The High Court of American Samoa ordered the factory and two Vietnamese government-owned labor agencies to pay \$3.5 million to the workers. Other cases are highlighted in the annual Department of Justice report.

#### **International Grant Activity**

The ideal way to combat trafficking is to prevent the victimization of people in the first place. Because the United States is a destination country for trafficked people, prevention activities in which the U.S. Government engages abroad are particularly important. Through the Department of State, the Department of Labor's Bureau of International Labor Affairs and the U.S. Agency for International Development, the U.S. Government offers a substantial amount of international assistance to help prevent trafficking in persons, and for improving the treatment of victims and the prosecution of traffickers abroad.

In FY 2003, the U.S. Government supported approximately 190 anti-trafficking programs totaling \$72.2 million, and benefiting over 92 countries, up from 118 programs in 55 countries in fiscal year 2001. The Government of the United States has invested \$147.5 million on anti-trafficking efforts over the last two fiscal years. The U.S. Government's international anti-trafficking efforts run the gamut from small projects to large multi-million-dollar programs to develop comprehensive regional and national strategies to combat the worst forms of child labor.

Based on U.S. Government findings over many years of international development work, assistance that has a positive impact on anti-trafficking efforts include: development or improvement of anti-trafficking laws; provision of equipment for law enforcement; economic alternative programs for vulnerable groups; education programs addressing both the supply and demand sides of trafficking in persons; training for government officials and medical personnel; anti-corruption measures; establishment or renovation of shelters, crisis centers, or safe-houses for victims; support for voluntary and humane return and reintegration assistance for victims; and support for psychological, legal, medical and counseling services for victims provided by NGOs, international organizations and governments.

#### **Report on the Worst Forms of Child Labor**

The Department of Labor also publishes an annual report, mandated by the Trade and Development Act of 2000, on efforts governments are taking to meet their international commitments to eliminate the worst forms of child labor, including the trafficking of children for exploitative labor and commercial sexual exploitation. The Trade and Development Act (TDA) provides that efforts to eliminate the worst forms of child labor count as an important eligibility criterion for countries that are recipients of trade benefits under the Generalized System of Preferences, the Caribbean Basin Trade Partnership Act, and the African Growth and Opportunity Act. The TDA Report released in

2003 chronicled the incidence of the worst forms of child labor, and government efforts to combat it, in over 140 countries and territories.

#### **International Engagement**

The U.S. Government also engages internationally through cooperation with countries that support the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the UN Convention Against Transnational and Organized Crime, adopted by the UN General Assembly in November 2000; the United States signed the Convention and Protocol in December 2000 and the President has submitted them to the Senate for advice and consent to ratification.

Three other international instruments that address the sale of and trafficking in children have also been adopted - International Labor Organization (ILO) Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (which the United States ratified in February 1999), the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (which the United States ratified in December 2002), and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (which the United States ratified in December 2002). The Department of Labor works with the ILO to bring international attention to countries' obligations under ILO Convention 150, the Abolition of Forced Labor, as well.

#### **Training of NGOs**

Non-governmental organizations (NGOs) have been vital to the U.S. Government's efforts to identify and help trafficking victims as well as to prosecute trafficking cases. The U.S. Government engages in extensive outreach to NGOs, which are often the first point of contact with trafficking victims. These contacts foster good relations with groups that receive and shelter trafficking victims and are often in a position to encourage victims to come forward and report abuse. Additionally, in those situations in which law enforcement is actively involved in liberating victims from servitude, some NGOs can provide safe houses for the victims.

U.S. Government personnel have been working closely with NGOs across the country to train service providers on the provisions of the TVPA, as amended. Through such training, federal prosecutors, Federal Bureau of Investigation and ICE agents, immigration officials and Health and Human Services' personnel have forged strong relationships with NGOs, learned about potential new cases, acquired NGO assistance in procuring refuge and support for trafficking victims, educated non-governmental organizations on the requirements for identifying a victim of a severe form of trafficking, and trained service providers on the roles they can play to contribute toward the success of a trafficking investigation and prosecution.

#### **Labor Programs**

The Department of Labor (DOL) also supports programs through the International Organization's International Program on the Elimination of Child Labor as well as through non-governmental and faith-based organizations that address child trafficking in 20 countries around the world, either as the central focus of the project or as a component of a broader project. These projects rescue children from trafficking and exploitative work situations and provide them with rehabilitation services and educational opportunities.

Programs funded under DOL's Child Labor Education Initiative promote school attendance and provide educational opportunities for victims of child trafficking and children at risk of being trafficked. In the United States, DOL's Employment and Training Administration also assists victims with job training regardless of immigration status. This training includes job search assistance, career counseling, and occupational skills training.

#### **Senior Policy Operating Group on Trafficking in Persons**

In February 2002, pursuant to the TVPA, President George W. Bush established a Cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Persons. The Task Force is chaired by the Secretary of State and includes the Attorney General, the Secretary of Defense, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Homeland Security, the Director of Central Intelligence, the Director of the Office of Management and Budget, and the

Administrator of the U.S. Agency for International Development.

The Task Force's responsibilities include coordination and implementation of the Administration's anti-trafficking activities. In February 2003, the Congress passed and the President signed legislation creating the Senior Policy Operating Group on Trafficking in Persons (SPOG), chaired by the Director of the State Department's Office to Monitor and Combat Trafficking in Persons. The purpose of the SPOG is to bring together senior policy officials from the Task Force member agencies. This year the SPOG was responsible for a number of inter-agency policy developments including:

- Coordination of U.S. agency strategic plans to address trafficking in persons;
- Development of an inter-agency grant policy statement to help implement the President's National Security Presidential Directive on Trafficking in Persons;
- Creation of a website that lists member agency grants and grants opportunities; and
- Coordination of the President's \$50 million initiative announced at the U.N. to fight trafficking in persons abroad.

[Report Home Page](#)

*"Yes you will if you want your daughter back in the Czech Republic to live." After years of threats and forced prostitution Katya was rescued by a friendly cab driver. Katya is now working at a hospital and studying for a degree in social work.*

In 2000, the Congress passed and the President enacted the Trafficking Victims Protection Act (22 U.S.C. 7101 et seq.) (TVPA), recently amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193). The TVPA seeks to combat

human trafficking by punishing traffickers, protecting victims, and mobilizing U.S. government agencies to wage a global anti-trafficking campaign. The TVPA, as amended, contains significant mandates for the Departments of State, Justice, Labor, Homeland Security, Health and Human Services, and the U.S. Agency for International Development.

This report is mandated by the TVPA and is intended to raise global awareness and spur foreign governments to take effective actions to counter trafficking in persons. The report has increasingly focused the efforts of a growing community of nations

*Magar was one of thousands of Nepali girls who were trafficked into Indian brothels to work as prostitutes. She escaped that and returned home. Now Magar works at the border checking every vehicle that passes for trafficking activity.*



### BUYING A VICTIM'S FREEDOM

Perhaps one of the more repugnant aspects of modern-day slavery is the commodification of human lives: the assignment of a monetary value to the life of a woman, man or child. Whether in an Indian brothel or a Sudanese slave camp, a price is placed on a victim's freedom.

Organizations and individuals seeking to rescue victims have sometimes opted to buy their freedom. Paying this ransom brings instant results. A victim is freed from the bonds of slavery. Yet the implications of this practice are more complicated.

If victims are freed from a brothel by an organization or individual, the trafficker can, using the proceeds from the sale, find new victims to perform the same service. It is difficult to determine whether there has been a net reduction in the number of victims. In any event, the enslavement may continue without any cost or punishment to the trafficker or exploiter.

A more lasting and effective way to secure a victim's freedom is through the application of law: holding traffickers and the exploiters of trafficking victims accountable under criminal justice systems. Through raids that rescue victims without monetary compensation, and arrests of those who enslave, judicial tools extract a high price from the merchants of this heinous trade. Applying criminal laws also provides society with a measure of justice, which is why U.S. law places a priority on governments criminalizing and punishing forms of trafficking in persons.

to share information and to partner in new and important ways to fight human trafficking. A country that fails to take significant actions to bring itself into compliance with the minimum standards for the elimination of trafficking in persons receives a negative assessment in this report. Such an assessment could trigger the withholding of non-humanitarian, non-trade-related assistance from the United States to that country.

We have much to learn about the scope and nature of human trafficking. We have tried in this report to point out areas where information is sparse and to raise issues that merit further investigation. Within these

constraints, the 2004 TIP Report represents an up-to-date and comprehensive look at the nature and scope of modern-day slavery, and the broad range of actions being taken in the global campaign for its elimination.

As a consequence of the TVPA and this annual report, strong leadership, enhanced government efforts, and increased attention from international organizations and NGOs, we are entering a new era of cooperation. Nations are increasingly working together to close down trafficking routes, prosecute and convict traffickers, and protect and reintegrate trafficking victims. We hope this report inspires even greater progress.



◀ After a failed attempt to escape to Brazil, Dilaver Bojku, the suspected leader of a sex-trafficking ring in Macedonia is escorted by special police officers in Macedonia.

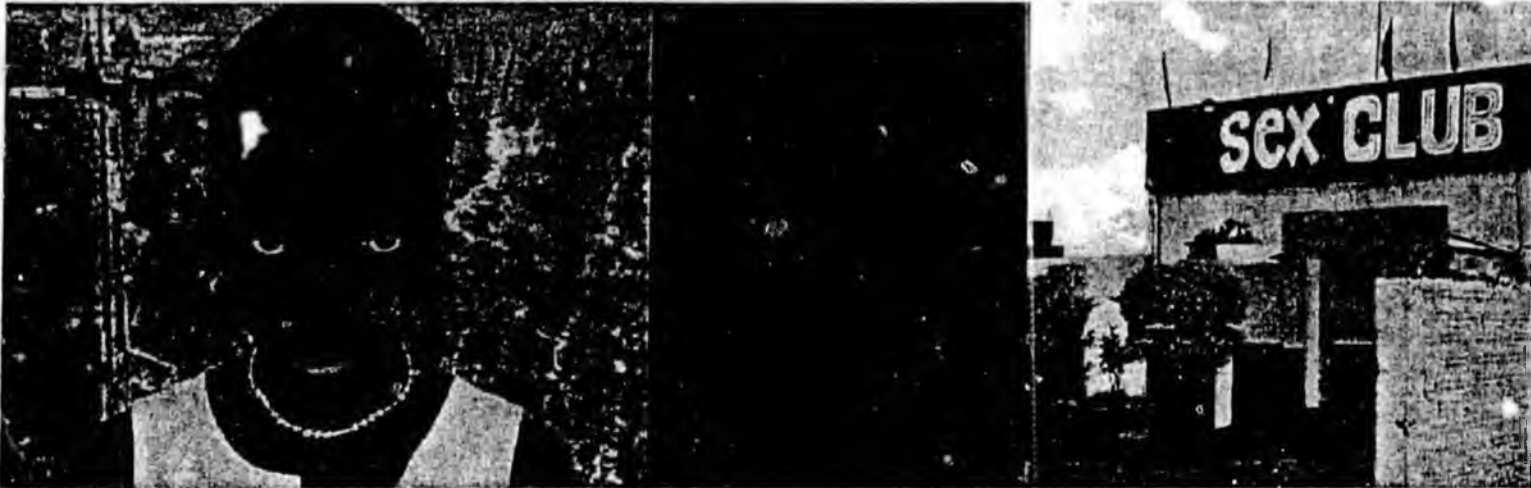
## CORRUPTION INHIBITS PROGRESS ON TRAFFICKING

Government corruption is a major impediment in the fight against trafficking for many countries. The scale of government corruption relating to trafficking in persons can range from localized to endemic. Countries facing such official corruption need to develop effective tools with which to tackle the problem. Some anti-corruption practices that have been effectively used by Central and Eastern European countries to bolster the fight against human trafficking include: performing psychological testing of law enforcement officers, including tests for stability, intelligence, character, ethics, and loyalty; requiring mandatory ethics briefings; issuing standard identification badges; conducting random integrity tests; distributing and using best practices manuals; randomly checking officials' personal belongings and cash; publicizing anonymous anti-corruption hotlines; rotating personnel, particularly at high volume border checkpoints; increasing wages; giving performance incentive awards; providing training to help personnel to better understand the importance of their work; requiring an oath of service; and, instituting routine administrative checks, for example, of immigration records.

*DENG, IN HER LATE 20'S, WAS RECRUITED in her native Thailand to travel voluntarily to Australia where she was told she could make lots of money as a prostitute. Upon arrival in Australia, however, she was met by traffickers who took away her passport and locked her in a house. She was told that she would have to pay off a debt of over \$30,000 by servicing 900 men. She was given little food to eat and was forcibly escorted to a brothel seven days a week, even when she was sick. She was told that if she tried to escape, criminal allies of the trafficking ring*

ments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

Many nations misunderstand this definition, overlooking internal trafficking or characterizing any irregular migration as trafficking. The TVPA addresses "severe forms of trafficking," defined as:



*would catch her. Deng's exploitation ended when Australian Immigration officials raided the brothel in which she was enslaved.*

#### **What is trafficking?**

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, defines trafficking in persons as:

the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of pay-

- a. sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or
- b. the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

These definitions do not require that a trafficking victim be physically transported from one location to another. They plainly apply to the recruitment, harboring, provision, or obtaining of a person for the enumerated purposes.

**What is the human and social toll of trafficking?** Victims of human trafficking pay a horrible price. Physical and psychological harm, including disease and stunted growth, often has permanent effects, ostracizing trafficking victims from their families and communities. Trafficking victims often miss critical opportunities for social, moral, and spiritual development. In many cases the exploitation of trafficking victims is progressive: a child trafficked into one form of labor may be further abused in another. In Nepal, girls recruited to work in carpet factories, hotels, and restaurants have been forced later into the sex industry in India.

guage, compounding the psychological damage from isolation and domination. Ironically, the human capacity to endure unspeakable hardship and deprivation leads many trapped victims to continue to work, hoping for eventual freedom.

*TINA, A TEENAGER FROM A RURAL Indonesian village, incurred hundreds of dollars in debt for four months of domestic service training and board at an Indonesian migrant labor center. From there Tina, like many other Indonesian girls, was transported to Malaysia, believing she would work as a*



◀ *Beninese child laborers are handed over to the Beninese authorities in Krake. Skin broken and hands callused from months of hauling granite, 74 child laborers as young as 4 underwent emergency medical treatment after their rescue from traffickers who had sold them in Nigeria.*



In the Philippines, and in many other countries, children who initially migrate or are recruited for the hotel and tourism industry, often end up trapped in brothels. A brutal reality of the modern-day slave trade is that its victims are all too often bought and sold many times over.

Victims forced into sex slavery are often subdued with drugs and suffer extreme violence. Victims trafficked for sexual exploitation suffer physical and emotional damage from premature sexual activity, forced substance abuse, and exposure to sexually transmitted diseases including HIV/AIDS. Some victims suffer permanent damage to their reproductive organs. Moreover, the victim is typically trafficked to a location where he or she cannot speak or understand the lan-

*maid for a Malaysian couple. Forced to work up to 15 hours a day in a family business where she slept on the floor, Tina was told her salary would be withheld until she finished her two-year contract. After many instances of physical abuse, she sought refuge at a victims' shelter of a Malaysian NGO. Tina has filed a complaint with the police against her employer and has been given an extension of her immigration visa in order to pursue her case in Malaysia.*

**Trafficking in Persons Is a Human Rights Violation.** Fundamentally, trafficking in persons violates the universal human right to life, liberty, and freedom from slavery in all its forms. Trafficking of children under-

## THE FACTS ABOUT CHILD SEX TOURISM

The commercial sexual exploitation of children affects millions of children each year, in countries on every continent. One form of this exploitation is the growing phenomenon of Child Sex Tourism (CST). Persons who travel from their own country to a foreign country to engage in a commercial sex act with a child commit CST. The crime is fueled by weak law enforcement, the Internet, ease of travel, and poverty.

Tourists engaging in CST typically travel from their home countries to developing countries. Sex tourists from Japan, for example, travel to Thailand, and Americans tend to travel to Mexico or Central America. "Situational abusers" do not intentionally travel to seek sex with a child but take advantage of children sexually once they are in country. "Preferential child sex abusers" or pedophiles travel for the purpose of exploiting children.

In response to the growing phenomenon of CST, intergovernmental organizations, the tourism industry, and governments have begun to address the issue. World Congresses Against Commercial Sexual Exploitation convened in Stockholm and Yokohama in 1996 and 2001, drawing significant international attention to the issue. The World Tourism Organization established a task force to combat CST and promulgated a Global Code of Conduct for Tourism in 1999. Over the last five years, there has been a worldwide increase in the prosecution of child sex tourism offenses. Today, 32 countries have extraterritorial laws that allow the prosecution of their nationals for crimes committed abroad, regardless of whether the



offense is punishable in the country where it occurred.

Several countries have taken commendable steps to combat child sex tourism. For example, France's Ministry of Education along with travel industry representatives developed guidelines on CST for tourism school curricula, and state-owned Air France allocates a portion of in-flight toy sales to fund CST awareness programs. Brazil implemented

a national and international awareness campaign on sex tourism. Italy requires tour operators to provide information regarding its extraterritorial law on child sex offenses, and nearly every Swedish tour opera-

tor has signed a code of conduct agreeing to educate its staff about CST. Cambodia established police units focused on combating child sex tourism and has arrested and extradited foreign pedophiles. Japan prosecutes its citizens caught having sex with children in other countries.

The United States strengthened its ability to fight child sex tourism last year through passage of the Trafficking Victim Protection Reauthorization Act and the PROTECT Act. Together these laws enhance awareness through the development and distribution of CST information and increase penalties to up to 30 years for engaging in child sex tourism. In the first eight months of "Operation Predator" (a 2003 initiative to fight child exploitation, child pornography, and child sex tourism), U.S. law enforcement authorities arrested 25 Americans for child sex tourism offenses. Overall, the global community is awakening to the horrific issue of child sex tourism and is starting to take important initial steps.

mines the basic need of a child to grow up in a protective environment and the right to be free from sexual abuse and exploitation.

***Trafficking Promotes Social Breakdown.***

The loss of family and community support networks renders the trafficking victim vulnerable to the traffickers' demands and threats, and contributes in several ways to the breakdown of social structures.

Trafficking weakens parental authority, undermines extended family ties, and prevents the nurturing and moral development of children. Trafficking interrupts the passage of knowledge and cultural values from

parent to child and from generation to generation, weakening a core pillar of society. The profits from trafficking often allow the practice to take root in a particular community, which is then repeatedly exploited as a ready source of victims. The fear of becoming a trafficking victim can lead vulnerable groups such as children and young women to go into hiding, with adverse effects on their schooling or family structure. The loss of education reduces victims' future economic opportunities and increases their vulnerability to being trafficked in the future. Victims who are able to return to their communities often find themselves



◀ *An Albanian woman at her home with her son and the television set she was given by the Italian family to whom she gave one of her sons in 1999.*

**STATEMENT OF PRESIDENT GEORGE W. BUSH**  
**Excerpt of Address to the United Nations General Assembly**  
**The United Nations • New York, New York**  
**September 23, 2003**

**T**here's another humanitarian crisis spreading, yet hidden from view. Each year, ... human beings are bought, sold or forced across the world's borders. Among them are hundreds of thousands of teenage girls, and others as young as five, who fall victim to the sex trade. This commerce in human life generates billions of dollars each year—much of which is used to finance organized crime.

There's a special evil in the abuse and exploitation of the most innocent and vulnerable. The victims of the sex trade see little of life before they see the very worst of life—an underground of brutality and lonely fear. Those who create these victims and profit from their suffering must be severely punished. Those who patronize this industry debase themselves and deepen the misery of others. And governments that tolerate this trade are tolerating a form of slavery.

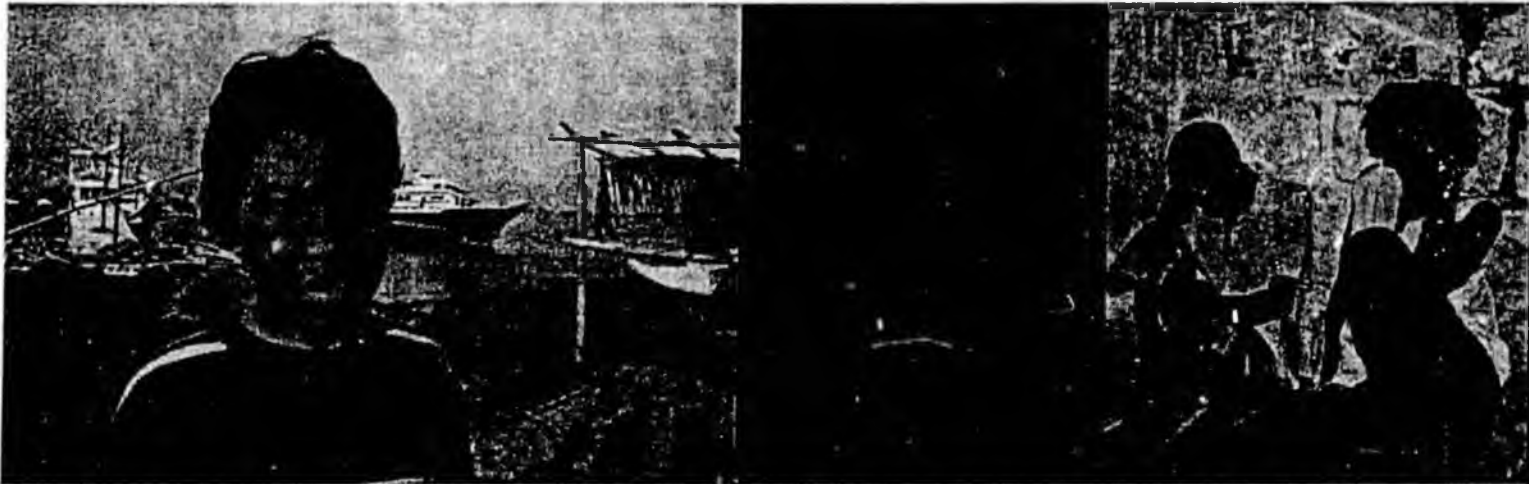
This problem has appeared in my own country, and we are working to stop it. The PROTECT Act

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

stigmatized and ostracized, and require continuing social services. They are more likely to become involved in substance abuse and criminal activity.

*NOI CAME FROM A POOR COMMUNITY IN rural Thailand. At 15, seeking to escape rape and sexual abuse in her foster family, she found a foreign labor agent in Bangkok who advertised well-paid waitress jobs in Japan. She flew to Japan and later learned that she had entered Japan on a tourist visa under a false identity. On her arrival in Japan, she was taken to a karaoke bar where the owner raped*

*her, subjected her to a blood test and then bought her. "I felt like a piece of flesh being inspected," she recounted. The brothel madam told Noi that she had to pay off a large debt for her travel expenses. She was warned that girls who tried to escape were brought back by the Japanese mafia, severely beaten, and their debts doubled. The only way to pay off the debt was to see as many clients as quickly as possible. Some clients beat the girls with sticks, belts and chains until they bled. If the victims returned crying, they were beaten by the madam and told that they must have provoked the client.*



which I signed into law this year, makes it a crime for any person to enter the United States, or for any citizen to travel abroad, for the purpose of sex tourism involving children. The Department of Justice is actively investigating sex tour operators and patrons, who can face up to 30 years in prison. Under the Trafficking Victims Protection Act, the United States is using sanctions against governments to discourage human trafficking.

The victims of this industry also need help from members of the United Nations. And this begins with clear standards and the certainty of punishment under laws of every country. Today, some nations make it a crime to sexually abuse children abroad. Such conduct should be a crime in all nations. Governments should inform travelers of the harm this industry does, and the severe punishments that will fall on its patrons. The American government is committing \$50 million to support the good work of organizations that are rescuing women and children from exploitation, and giving them shelter and medical treatment and the hope of a new life. I urge other governments to do their part.

We must show new energy in fighting back an old evil. Nearly two centuries after the abolition of the transatlantic slave trade, and more than a century after slavery was officially ended in its last strongholds, the trade in human beings for any purpose must not be allowed to thrive in our time.

*The prostitutes routinely used drugs before sex "so that we didn't feel so much pain." Most clients refused to use condoms. The victims were given pills to avoid pregnancy and pregnancies were terminated with home abortions. Victims who managed to pay off their debt and work independently were often arrested by the police before being deported. Noi finally managed to escape with the help of a Japanese NGO.*

**Trafficking Fuels Organized Crime.** The profits from human trafficking fuel other criminal activities. According to the UN,

human trafficking is the third largest criminal enterprise worldwide, generating an estimated 9.5 billion USD in annual revenue according to the U.S. intelligence community. It is also one of the most lucrative criminal enterprises, and is closely connected with money laundering, drug trafficking, document forgery, and human smuggling. There have also been documented ties to terrorism. Where organized crime flourishes, governments and the rule of law are weakened.

**Trafficking Deprives Countries of Human Capital.** Trafficking has a negative impact



### ABUSE OF "ARTISTIC" OR "ENTERTAINER" VISAS

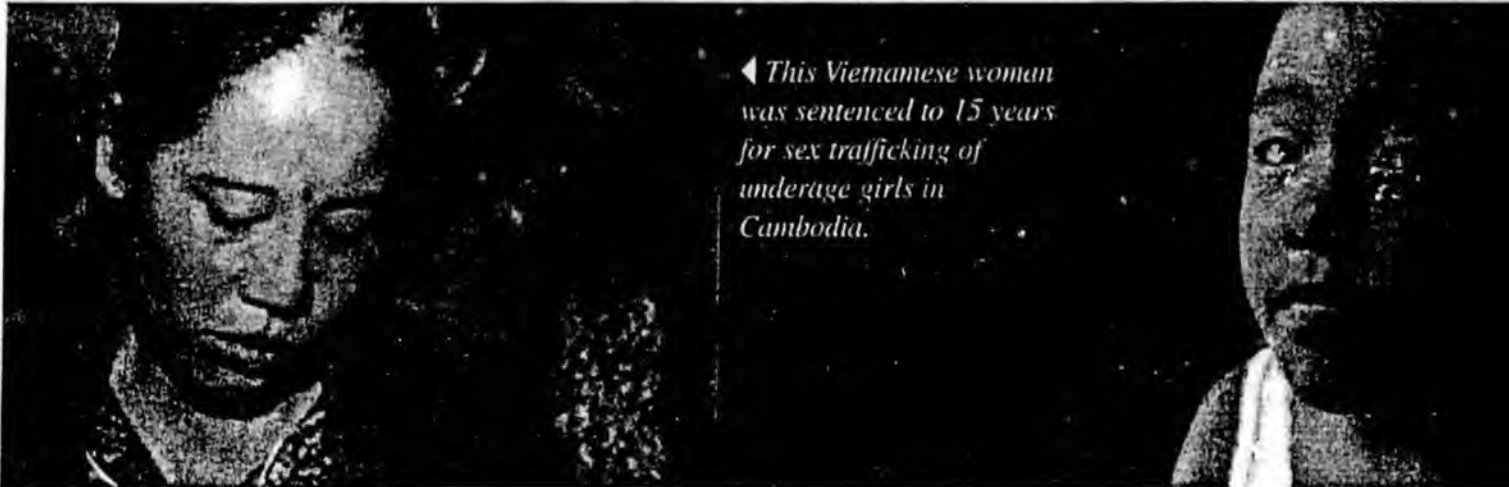
In many countries, artistic or entertainer visas are obtained to facilitate the movement and exploitation of trafficking victims. Thousands of women are granted these temporary visas in the expectation of legitimate employment in the entertainment or hospitality industries. Such visas are typically granted upon presentation of a work contract or offer of engagement by a club owner, proof of financial resources, and/or medical test results. Employment agencies, often licensed under the laws of the origin and destination countries, play a key role in the deception and recruitment of these women. On arrival at their destination, victims are stripped of their passports and travel documents and forced into situations of sexual exploitation or bonded servitude. Having overstayed or otherwise violated the terms of the visa, victims are coerced by their exploiters with threats to turn them over to immigration authorities.

Governments of countries that issue these types of visas in large numbers, such as (but by no means limited to) Switzerland, Slovenia, Cyprus, and Japan, should recognize that traffickers heavily exploit this mechanism. For example, it is reported that Japan issued 55,000 entertainer visas to women from the Philippines in 2003, many of whom are suspected of having become trafficking victims. Authorities should scrutinize the requirements for issuing these types of visas and implement screening procedures particularly for repeat applicants and sponsors. Awareness campaigns should be conducted in source countries to alert artistic visa applicants to the ploys that traffickers use to lure women into labor exploitation and forced prostitution situations.

## HOW PROSTITUTION FUELS TRAFFICKING

Considerable academic, NGO, and scientific research confirms a direct link between prostitution and trafficking. In fact, prostitution and its related activities, including pimping, pandering, and patronizing or maintaining brothels, contributes to trafficking in persons by serving as a front behind which traffickers for sexual exploitation operate. A Swedish government study revealed that much of the vast profits generated by the global prostitution industry go directly into the pockets of human traffickers. The International Organization for Migration estimates that each year 500,000 women are sold (trafficked) to local prostitution markets in Europe.

Of the 600,000 – 800,000 people trafficked across international borders every year, 70 percent are female and 50 percent are children. The majority of those women and girls fall prey to the commercial sex trade.



◀ *This Vietnamese woman was sentenced to 15 years for sex trafficking of underage girls in Cambodia.*

on labor markets, contributing to an irretrievable loss of human resources. Some effects of trafficking include depressed wages, fewer individuals left to care for an increasing number of elderly persons, and an undereducated generation. These effects further lead to the loss of future productivity and earning power. Forcing children to work 10 to 18 hours per day at an early age denies them access to education and reinforces the cycle of poverty and illiteracy that stunts national development.

***Trafficking Undermines Public Health.*** Victims of trafficking often endure brutal conditions that result in physical, sexual and psychological trauma. Sexually transmitted infections, pelvic inflammatory dis-

ease, and HIV/AIDS are often the result of forced prostitution. Anxiety, insomnia, depression, and post-traumatic stress disorder are common psychological manifestations among trafficked victims. Unsanitary and crowded living conditions, coupled with poor nutrition, foster a host of adverse health conditions such as scabies, tuberculosis, and other communicable diseases. Children suffer growth and development problems and develop complex psychological and neurological consequences from deprivation and trauma.

The most egregious abuses are often borne by children, who are more easily controlled and forced into domestic service, armed conflict, and other hazardous forms of work. Children may be subjected to progressive

exploitation, i.e., resold several times and subjected to an array of physical, sexual and mental abuse. This abuse complicates their psychological and physical rehabilitation and jeopardizes their reintegration.

*TANYA'S STORY: "MY FRIEND ORGANIZED for me to get a job in Egypt. We traveled together from Chisinau to Moscow where I got a plane to Egypt. When I got to the airport in Egypt, I was paired with a man in order to walk through customs and immigration. People were waiting for me and they took me to a five-star hotel. I gave up my passport at*

*Trafficking Subverts Government Authority.* Many governments struggle to exercise full control over their national territory, particularly where corruption is prevalent. Armed conflicts, natural disasters, and political or ethnic struggles often create large populations of internally displaced persons. Human trafficking operations further undermine government efforts to exert its authority, threatening the security of vulnerable populations. Many governments are unable to protect women and children who are kidnapped from their homes and schools or from refugee camps. Moreover, the bribes paid by traffickers impede a government's ability to



◀ *Women rescued in brothels in Indian cities line up to identify an alleged trafficker at a shelter in Nepal.*



*the reception of the hotel and never saw it again. They put me in a car and we drove for a really long time. We went to a place where Bedouins are [Egypt's Sinai Peninsula] and those Bedouins took us through the desert. They kill you or beat you if they don't like your attitude. We had to walk for hours and hours through the desert where there were landmines. They pointed out the mines to us in the sand. We hardly ate and I lost 10 kilos by the time I got to Israel. When we got out of the desert, we were taken to a town in Israel, where the Bedouins arranged for us to be sold. Many girls were traveling with me, and all the girls going to Israel go through the same route and the same situation."*

battle corruption among law enforcement, immigration, and judicial officials.

*NASREEN WAS A TAJIK GIRL WHO WORKED IN Moscow. Her boss asked her to become his mistress, promising money, housing, a car, and a better life. Nasreen agreed to this arrangement. One day, a house-guest offered Nasreen the opportunity to work in Turkey. Nasreen's boss pressured her to accept the offer. Nasreen was tricked, and trafficked to Israel for forced prostitution. With the help of a sympathetic journalist, Nasreen was able to escape and return home.*

*Trafficking Imposes Enormous Economic Costs.* There are tremendous economic bene-

fits to be gained from eliminating trafficking. The International Labor Organization (ILO) recently completed a study on the costs and benefits of eliminating the worst forms of child labor—which by definition include child trafficking. The ILO concluded the economic gains from eliminating the worst

forms of child labor are substantial (tens of billions of dollars annually) because of the added productive capacity a future generation of workers would gain from increased education and improved public health. The human and social consequences of trafficking often mirror those of the worst forms of child labor.

### THE FACTS ABOUT CHILD SOLDIERS

Child soldiering is a unique and severe manifestation of trafficking in persons. Tens of thousands of children under age 18 have been conscripted into armed conflicts, serving in government armies, armed militias, and rebel groups. Some children are kidnapped and forced to serve; others join in the face of threats, bribes, and false promises of compensation.

Hoping in many cases for food, clothing, and shelter, a child's decision to join an armed group cannot be considered a free choice. Children caught up in armed conflict are desperately searching for a means of survival. Because of their emotional and physical immaturity, children are easily manipulated and coerced into violence. Many child soldiers are forced to use alcohol or narcotics as a way to desensitize them to violence or to enhance their performance.

Children who are forcibly conscripted are typically inadequately trained, treated harshly, and rapidly pushed into combat. Boys and girls may be sent into combat or minefields ahead of older troops. Some children have been used for suicide missions or are forced to commit atrocities against their families and communities. Others, including some of the 15,000 involved in recent Liberian conflicts, are made to serve as porters, cooks, guards, servants, messengers, or spies. Many child soldiers, mostly girls, are sexually abused, and are at high risk of sexually transmitted infections and unwanted pregnancies.

Child soldiers are killed and wounded at far higher rates than their adult comrades. Some armed groups are known to "brand" child conscripts across the face or chest with a knife or broken glass. Survivors often suffer multiple traumas and psychological scarring from the violence and brutality they experienced. Their development as a person is often irreparably damaged. Their families and home communities often reject many former child soldiers seeking to return because of the violence they or their group inflicted on the community.

The use of children to fight adults' wars is a global phenomenon. The problem is most critical in Africa and Asia, but armed groups in the Americas, Eurasia, and the Middle East also use children. There has been a failure of political will among many countries to enforce laws and international obligations prohibiting or restricting the use of child soldiers. All nations must work together with international organizations and NGOs to take urgent action to disarm, demobilize, and reintegrate child soldiers.



### How do traffickers operate?

Slave traders prey on the vulnerable. Their targets are often children and young women, and their ploys are creative and ruthless, designed to trick, coerce, and win the confidence of potential victims. Very often these ruses involve promises of marriage, employment, educational opportunities, or a better life.

lages to serve as soldiers and sex slaves. In East Asia, traffickers may visit cities such as Bangkok or Phnom Penh, befriend a young woman at a hotel, restaurant, or store, and offer to take her to another country for a "vacation." Upon arrival, the woman's passport is taken, she is turned over to a brothel operator, and the brutal indoctrination into a life of sex slavery begins.

### WHAT IS THE DIFFERENCE BETWEEN TRAFFICKING IN PERSONS AND HUMAN SMUGGLING?

The differences between migrant smuggling and trafficking in persons can be confusing. This confusion can make it difficult to obtain accurate information, especially from transit countries. Trafficking often but not always involves smuggling; the victim may initially agree to be transported within a country or across borders. Distinguishing between the two activities often requires detailed information on the victim's final circumstances.

Smuggling is generally understood to be the procurement or transport for profit of a person for illegal entry into a country. But the facilitation of illegal entry into or through a country is not, standing alone, trafficking in persons, even though it is often undertaken in dangerous or degrading conditions. Smuggling sometimes involves migrants who have consented to the activity. Trafficking victims, on the other hand, have either never consented or, if they initially consented, their consent has been negated by the coercive, deceptive or abusive actions of the traffickers. Trafficking victims often are unaware that they will be forced into prostitution or exploitative labor situations. Smuggling may therefore become trafficking. The key component that distinguishes trafficking from smuggling is the element of fraud, force, or coercion.

Unlike smuggling, trafficking can occur regardless of whether the victim is moved internally or across a border. Under the TVPA it is not necessary for a victim to have been transported to an exploitative situation for a severe form of trafficking to occur. It is sufficient if the victim is recruited, harbored, provided, or obtained "for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."

In India, for example, a trafficker may pose as a successful trader, persuading a girl's parents that he is a suitable spouse. After the marriage, the girl is sexually abused and sold into prostitution. Some men are known to have "married" over a dozen women from different villages using this tactic.

In Uganda, rebels from the Lord's Resistance Army roam the countryside at night, abducting young children from vil-

A Ukrainian girl, only 16, meets a young man at a dance and is offered a job in Germany as a nurse. Smuggled across borders at night, she is turned over to a brothel and forced to work as a prostitute. A rural Indonesian girl may be drawn to a domestic service job in a neighboring country with the promise of a salary that is not paid as promised. A rural girl from southern China may be drawn to Malaysia seeking the benefits of a vibrant economy, but she is forced

into sexual servitude. Or a young Vietnamese villager, seeking economic opportunity, may agree to travel to an island in the Pacific to work in a factory, not realizing that his travel documents will be confiscated and that his wages will be so minimal that he will be unable to repay the travel costs. The young and the helpless are often the most brutally exploited.

*BOPHA LIVED IN A RURAL CAMBODIAN village and married at 17. Her husband immediately took her to a hotel in another village and left her. Bopha discovered the hotel was a brothel and*

times constitute the supply, and abusive employers or sexual exploiters represent the demand.

The supply of victims is encouraged by many factors including poverty, the attraction of a perceived higher standard of living elsewhere, weak social and economic structures, a lack of employment opportunities, organized crime, violence against women and children, discrimination against women, government corruption, political instability, armed conflict, and cultural traditions such as traditional slavery. In some societies a tradition of fostering allows the third or fourth child to be sent to live and work in



◀ *A group of school children commute to school in a specially-protected van in Bangladesh. Parents have stepped up their vigilance against kidnapping in a poor community where trafficking in humans is not uncommon.*



*tried to escape, but she was forcibly detained and told she must pay off the price the hotel owner had paid for her. Bopha's debt kept increasing due to charges for her food, clothing, and other necessities. Bopha could not leave. Ravaged by HIV/AIDS, she was thrown out on the street and finally found her way to an NGO shelter in Phnom Penh. She has been there for two years receiving treatment; it is not known how much longer Bopha will live.*

#### **What are the causes of trafficking?**

There are many different causes of human trafficking. These causes are complex and often reinforce each other. Viewing trafficking in persons as a global market, vic-

an urban center with a member of the extended family (often, an "uncle"), in exchange for a promise of education and instruction in a trade. Taking advantage of this tradition, traffickers often position themselves as employment agents, inducing parents to part with a child, but then trafficking the child to work in prostitution, domestic servitude, or a commercial enterprise. In the end, the family receives few if any wage remittances, the child remains unschooled and untrained, and separated from his family, and the hoped-for economic opportunity never materializes.

On the demand side, factors driving trafficking in persons include the sex industry, and the growing demand for exploitable labor. Sex tourism and child pornography

have become worldwide industries, facilitated by technologies such as the Internet, which vastly expand choices available to consumers and permit instant and nearly undetectable transactions. Trafficking is also driven by the global demand for cheap, vulnerable, and illegal labor. For example, one of the biggest demands in prosperous countries of East Asia is for domestic servants who sometimes fall victim to exploitation or involuntary servitude.

A new source of demand for young women as brides and concubines is a consequence of widening gender gaps in densely populated India and China. In India, there

are now only 933 girls born for every 1,000 boys, due largely to the perception that a girl child is an economic liability in that country's strongly patriarchal society. Many couples use inexpensive and widely available sonograms to determine the gender of the fetus, and if a female is detected the child is aborted. Data from India's 2001 census, analyzed in 2003, show that the gap is most serious in the prosperous northwestern states of Haryana and the Punjab, where in some localities the gender gap has dropped below 825 girl births for every 1,000 boy births.

A similar gap has emerged in parts of China due to the government's "one-child"



◀—A victim of child trafficking breaks into tears upon arriving at Manila's port from the central Philippines. Youngsters continue to be recruited for child labor and abused because their parents need money.

### VICTIM RESCUE

As this report shows, the number of trafficking victims the world over is enormous. Many victims are identified through the good work of NGOs and government agencies that investigate trafficking sites, such as brothels, sweatshops, and child soldier camps.

The need to rescue victims promptly is paramount but rescues do not always end the suffering. Some countries lack adequate protection facilities; victims, including children, are placed in jails and further traumatized. In others, foreign victims who lack adequate documentation may be deported summarily without regard to their health or safety. In such cases, many are re-trafficked with additional "debts" and abuses added to their misery.

The psychological and physical suffering by victims of sexual exploitation, involuntary servitude, bonded labor, or forced child soldiering present authorities with long-term challenges. Counseling, shelter, medical attention, and vocational training are required to fully rehabilitate the victims and successfully reintegrate them into their original communities.

Just as challenging as the rescue of victims is the long-term after-rescue care and rehabilitation, which requires planning and considerable resources. There is the need to deliver comprehensive services to ensure that victims are treated with dignity, and given viable opportunities to build a new life. The lack of well-developed protective facilities, however, should not serve as an excuse for not freeing the enslaved.

## INVOLUNTARY SERVITUDE

One of the severe forms of trafficking in persons most difficult to identify is involuntary servitude (see box on page 24 for legal definition). Many economic migrants who leave their homes in less developed communities and travel—short or far distances—to urban centers and other more developed communities for work are vulnerable to situations of involuntary servitude. The vast majority of economic migrants, often low-skilled laborers such as construction workers and domestic servants, find non-exploitative work situations that benefit them and their families.

However, some economic migrants suffer abuses by an employer. This could include verbal and physical abuse by the employer or the breach of the contract governing the employees' work—often seen in the form of withholding wages or denying time off from work. A yet smaller group find themselves exploited to the point that they perceive themselves to be captive.

So when does an exploitative, abusive work situation constitute involuntary servitude? The answer is guided by our law, the TVPA. When an employer uses verbal or physical abuse, or the threat of such abuse, in order to keep that worker in his or her service, this is involuntary servitude. If the employer intentionally causes the employee to believe that he or she cannot leave that work situation without facing abuse or physical restraint, this is involuntary servitude. Physically restraining the employee from leaving the workplace is not necessary if the employer's actions or threats induce a condition of servitude. An employer's withholding of an employee's travel documents—such as a passport, work permit, or identity card—is a form of physical restraint that may support a finding of involuntary servitude. For this reason, many governments have criminalized the holding of a foreign employee's travel documents—the key instruments that preserve the fundamental freedom of movement.

It is the employer's responsibility, and the responsibility of the government authority, to ensure that workers feel they are free to remove themselves from an abusive work environment and are afforded a fair hearing of any real or perceived abuses arising out of that labor.



policy, which has prompted many parents to abort pregnancies once the gender of the fetus is determined to be female. North Korean and Vietnamese girls and women reportedly are trafficked into Southern China as forced brides and prostitutes. These gaps between boy and girl births have existed for decades and now yield pro-

nounced deficits of brides in certain areas of both India and China.

### What strategies are effective in the war against trafficking?

Effective anti-trafficking strategies should target all three aspects of the trade: the supply side, the traffickers, and the demand side.

On the supply side, the conditions that drive trafficking must be addressed with programs that alert communities to the dangers of trafficking, improve educational opportunities and school systems, create economic opportunities, promote equality of rights, educate targeted communities on their legal rights, and create better and broader life opportunities.

At the trafficker level, law enforcement programs must identify and interdict trafficking routes; clarify legal definitions and coordinate law enforcement responsibilities; vigorously prosecute traffickers and those who aid and abet them; and, fight public

corruption that facilitates and profits from the trade, eroding the rule of law.

On the demand side, persons who exploit trafficked persons must be identified and prosecuted. Employers of forced labor and exploiters of victims trafficked for sexual exploitation must be named and shamed. Awareness-raising campaigns must be conducted in destination countries to make it harder for trafficking to be concealed or ignored. People must be withdrawn from slave-like working situations, and reintegrated into their families and communities.

Local, state, national, and regional programs to fight trafficking must be coordi-

▶ Although the Government of the U.A.E. has imposed a restriction against the use of trafficked South Asian children as camel jockeys, the practice continues in other Gulf states.



### WOULD LEGALIZING PROSTITUTION HELP CURB HUMAN TRAFFICKING?

The United States Government takes a firm stand against proposals to legalize prostitution because prostitution directly contributes to the modern-day slave trade and is inherently demeaning. When law enforcement tolerates or communities legalize prostitution, organized crime groups are freer to traffic in human beings. Where prostitution is legalized, the cost of sexual services includes brothel rent, medical examinations, and registration fees. Due in part to these costs, illegal prostitution has flourished in legalized areas as clients seek cheaper sex. In some countries where prostitution is legal there are from three to ten times as many non-registered women involved in prostitution as registered women. Many of these non-registered women are foreigners who have been trafficked. There is no evidence that legalization in any country has reduced the number of trafficking victims, and NGOs working in this field note that the number of trafficking victims often increases. In short, where prostitution is legalized, a "black market" in trafficking emerges, as exploiters seek to maximize profit by avoiding the scrutiny and regulatory costs of the legal prostitution market. Legalized prostitution is therefore a trafficker's best shield, allowing him to legitimize his trade in sex slaves, and making it more difficult to identify trafficking victims.

## ESTIMATES OF TRAFFICKING VICTIMS

**D**uring the last year, the U.S. Government estimated that 600,000 – 800,000 people were trafficked across transnational borders worldwide. Analyses of data reveal that 80 percent of the victims trafficked across international borders are female and 70 percent of those females are trafficked for sexual exploitation. Estimates of people trafficked into the United States ranged from 14,500 to 17,500. These recently revised estimates reflect the use of an improved methodology for estimating trafficking flows. Estimates that include global intra-country trafficking in persons range from two to four million.

Estimates of the number of trafficking victims found throughout the world are inherently difficult to produce. Trafficking in persons, like drug trafficking and arms smuggling, is a clandestine activity made even harder to quantify by its numerous forms. It often is hidden as a subset of alien smuggling or extreme abuse of foreign migrant labor. Moreover, the availability of data on trafficking varies considerably from region to region: there is a noted paucity of data, for example, of persons trafficked to, from, or through the Middle East. The U.S. Government estimates cited in this report focus on persons trafficked across international borders, as those victims are not as difficult to identify as the populations trafficked within all countries.

nated. By drawing public attention to the problem, governments can increase anti-trafficking resource allocations, improve understanding of the problem, and enhance their ability to develop effective strategies. Coordination and cooperation, whether national, bilateral, or regional, will leverage country efforts and recruit volunteers to the fight. International standards should be harmonized, and nations should cooperate more closely to deny traffickers legal sanctuary.

Knowledge about trafficking must be improved, and the network of anti-traffick-

ing organizations and efforts strengthened. Religious institutions, NGOs, schools, community associations, and traditional leaders need to be mobilized in the struggle. Victims and their families require skills training and alternative economic opportunities. Anti-trafficking strategies must be periodically examined to ensure they remain innovative and effective. Finally, government officials must be trained in anti-trafficking techniques, and trafficking flows must be tracked statistically to illuminate the nature and magnitude of the problem so that it may be better understood. ■

## DEFINITION OF "SEVERE FORMS OF TRAFFICKING IN PERSONS"

The Trafficking Victims Protection Act defines "severe form of trafficking in persons" as

- (a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or
- (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

### Definition of Terms Used in the Term "Severe Forms of Trafficking in Persons"

*"Sex trafficking"* means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

*"Commercial sex act"* means any sex act on account of which anything of value is given to or received by any person.

*"Involuntary servitude"* includes a condition of servitude induced by means of (a) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or (b) the abuse or threatened abuse of the legal process.

*"Debt bondage"* means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

*"Coercion"* means (a) threats of serious harm to or physical restraint against any person; (b) any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or, (c) the abuse or threatened abuse of the legal process.

## ABOUT THE REPORT

The TIP Report is the most comprehensive worldwide report on the efforts of governments to combat severe forms of trafficking in persons. The TIP Report covers the period April 2003 through March 2004.



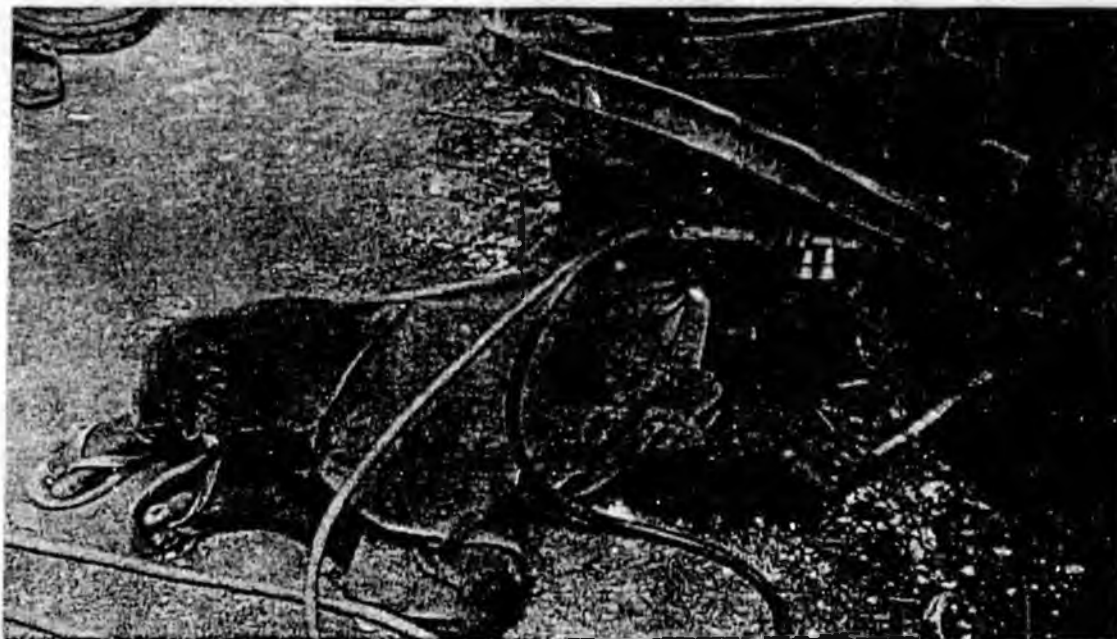
### What the Report Is and Is Not

The annual human trafficking report includes those countries<sup>1</sup> determined to be countries of origin, transit, or destination for a significant number of victims of severe forms of trafficking. Since slavery probably extends to every country in the world, the omission of a country from the report may only indicate a lack of adequate information. The country narratives are organized by region and describe the scope and nature of the trafficking problem in the country, the reasons for including the country in the report, and the government's efforts to combat trafficking. The narrative also contains an assessment of the government's compliance with minimum standards, and includes suggestions for actions to combat trafficking. The remainder of the country narrative describes the government's efforts to enforce laws against trafficking, protect victims, and

prevent trafficking, and explains the basis for rating the country as Tier 1, Tier 2, the Tier 2 Special Watch List, or Tier 3.

Some countries have established task forces and action plans to create goals and benchmarks for anti-trafficking efforts. However, plans and task forces, on their own, are not weighted heavily in assessing country efforts. Rather, the report focuses on concrete actions governments have taken to fight trafficking, highlighting prosecutions, convictions, prison sentences for traffickers, victim protection, and prevention efforts. The report does not give great weight to laws in draft form or that have not yet been enacted, though task forces, action plans, or draft laws are sometimes noted in a country narrative as examples of preliminary actions governments have undertaken to combat trafficking. Finally, the report does not focus on other government efforts

<sup>1</sup>Under Section 4 (b) of the Taiwan Relations Act, "[whenever] the laws of the United States refer to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan."



that contribute indirectly to reducing trafficking, such as education programs, support for economic development, or programs aimed at enhancing gender equality, although these are worthwhile endeavors.

#### **What Is Different in This Year's Report?**

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA) made several important changes to the TVPA.

Three of the four minimum standards for the elimination of trafficking remain unchanged. The minimum standards are:

1. The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.
2. For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.
3. For the knowing commission of any act of a severe form of trafficking in per-

sons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

4. The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

The fourth minimum standard was amended and supplemented, and now calls for consideration of ten criteria rather than seven: Criterion (1) now requires consideration not only of investigations and prosecutions, but also of convictions and sentences, and whether the government of the country is responsive to the State Department's requests for law enforcement data. Criterion (7), relating to anti-corruption measures, now also requires consideration of prosecutions, convictions, and sentences of government officials complicit in trafficking in persons, and the host government's provision or failure to provide such data. Three new criteria require consideration of:

8. Whether the percentage of victims of severe forms of trafficking in the coun-

try that are non-citizens of such countries is insignificant;

9. Whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the criteria described in paragraphs (1) through (8) and makes available publicly a periodic assessment of such efforts; and,
10. Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year.

The criteria used to assess whether a country is making serious and sustained efforts to come into compliance with the minimum standards for the elimination of trafficking are reproduced in an appendix to this report.

The TVPRA also created a "Special Watch List" of countries to receive special scrutiny during the following year. The list is composed of: 1) countries listed as Tier 1 in the current report that were listed as Tier 2 in the 2003 report; 2) countries listed as Tier 2 in the current report that were listed as Tier 3 in the 2003 report; and, 3) countries listed as Tier 2 in the current report, where

- a) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
- b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or
- c) the determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.

Countries on the Special Watch List will be reexamined in an interim assessment to be submitted to Congress by February 1, 2005.

#### **Why Does This Year's Report Contain More Country Assessments than Last Year's Report?**

The 2004 report includes an analysis of trafficking and government efforts to combat it in 140 countries, a net increase of 16 countries over last year. In previous years, some





## THE TIERS

**TIER 1:** Countries whose governments fully comply with the Act's minimum standards.

**TIER 2:** Countries whose governments do not fully comply with the Act's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

**TIER 2 WATCH LIST:** Countries whose governments do not fully comply with the Act's minimum standards but are making significant efforts to bring themselves into compliance with those standards, and:

- a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; or
- b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or
- c) The determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year

**TIER 3:** Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

countries have not been included because it was difficult to gather reliable and complete information due to: the illegal and underground nature of trafficking; the absence or nascence of government programs; the difficulty in distinguishing between trafficking and smuggling; and, the fear and silence of

trafficking victims, who often cross borders illegally or are physically abused or coerced. For some countries, there was information available, but the data did not support a finding that on the order of 100 or more persons were trafficked to, from, or within a country, the threshold for inclusion in the TIP report.

Over the past year, we have witnessed a stronger response from many governments, more public awareness campaigns alerting victims to protection services, and greater transparency in anti-trafficking efforts. As a result of these positive actions, the Department gathered information on more countries this year. The Department intends to include all countries with a significant number of trafficking victims in future reports, as more and better information becomes available.

#### **How the Report Is Used**

This report is a diplomatic tool for the U.S. Government to use as an instrument for continued dialogue, encouragement for the actions of some governments, and as a guide to help focus resources on prosecution, protection, and prevention programs and policies. After the release of this year's TIP Report, as in past years, the Department will continue to engage governments about the content of the report to strengthen cooperative efforts to eradicate trafficking. In the coming year, and particularly in the months before a determination is made regarding sanctions for Tier 3 countries and an interim assessment is made of Special Watch List countries, the Department will use the information gathered in the compilation of this report to more effectively target assistance

programs and to work with countries that need help in combating trafficking. The Department hopes the report will be a catalyst for government and non-government efforts to combat trafficking in persons around the world.

#### **Methodology**

The State Department obtained information for this report from U.S. embassies and consulates around the world, foreign embassies in Washington, and non-governmental and international organizations working on human rights and trafficking issues. Our diplomatic posts reported on the trafficking situations and governmental actions based on thorough research, including meetings with a wide variety of government officials, local and international NGO representatives, international organizations, officials, journalists, academics, and victims.

The Office to Monitor and Combat Trafficking in Persons compiled an initial draft of the report using information from U.S. Embassy posts, meetings with foreign government officials, NGOs and international organizations, published reports, research trips to every region, and the information submitted to the e-mail address, [tipreport@state.gov](mailto:tipreport@state.gov), which was established for NGOs and individuals to report information on government progress in addressing



**I'm not a tourist attraction**

Stop child sex tourism.



trafficking. To compile this year's report, the Department took a fresh look at these sources of information on every country to make the following assessments. Assessing each government involved a two-step process:

**Step One: Significant Numbers of Victims**

First, the Department determined whether a country is "a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking," on the order of 100 or more victims, the same threshold applied in previous reports. Only those countries that reach this threshold are included in the report. Countries for which such information was not available were not included.

**Step Two: Tier Placement**

The Department placed each of the countries included on the 2003 TIP Report into one of the three lists, described here as tiers, mandated by the TVPA. This placement is based on the extent of a government's actions to combat trafficking. The Department first evaluates whether the government fully complies with the TVPA's minimum standards for

the elimination of trafficking. Governments that do are placed in Tier 1. For other countries, the Department considers whether their governments made significant efforts to bring themselves into compliance. Countries that make significant efforts are placed in Tier 2. Those countries whose governments do not fully comply with the minimum standards and are not making significant efforts to bring themselves into compliance are placed in Tier 3. Finally, the Special Watch List criteria are considered and, if applicable, countries are placed on that list.

As required by the TVPA, in making tier determinations between Tiers 2 and 3, the Department considers the overall extent of human trafficking in the country; the extent of governmental noncompliance with the minimum standards, particularly the extent to which government officials have participated in, facilitated, condoned, or are otherwise complicit in trafficking; and, what measures are reasonable to bring the government into compliance with the minimum standards in light of the government's resources and capabilities.





### Penalties

Governments of countries in Tier 3 may be subject to certain sanctions. The U.S. Government may withhold non-humanitarian, non-trade-related assistance. Countries that receive no such assistance would be subject to withholding of funding for participation in educational and cultural exchange programs. Consistent with the TVPA, such governments would also face U.S. opposition to assistance (except for humanitarian, trade-related, and certain development-related assistance) from international financial institutions such as the International Monetary Fund and multilateral development banks such as the World Bank. These potential consequences would take effect at the beginning of the next fiscal year, October 1, 2004.

All or part of the TVPA's sanctions can be waived upon a determination by the President that the provision of such assistance to the government would promote the

purposes of the statute or is otherwise in the national interest of the United States. The TVPA also provides that sanctions shall be waived if necessary to avoid significant adverse effects on vulnerable populations, including women and children. Sanctions also would not apply if the President finds that, after this report is issued but before the imposition of sanctions, a government has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

Regardless of tier placement, every country can do more, including the United States. No country placement is permanent. All countries must maintain and increase efforts to combat trafficking. The United States will continue to monitor progress throughout the world and work with its partners to strengthen international efforts to eliminate all forms of modern-day slavery. ■

**SB**

**19**

Added to  
BBSU 1/20

### SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/11/05

FURTHER: Finance

Date of 5-Day Notice: Jan 13, 2005  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 1/20/05

Judiciary Committee considered

SENATE BILL NO. 19

SB 19 CIVIL LEGAL SERVICES FUND

"An Act relating to the creation of a civil legal services fund."

and recommends:

- be replaced with \_\_\_\_\_ CS SR 19 (JUD)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

Senate Bill:  
 Same Title  
 New Title

House Bill:  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
GDV	1/18/05			X	1

**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
French		X			
Huggins		X			
Herriault		X			
Seckins	CHAIR:	X			

# ALASKA STATE SENATE



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

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

**Senator Ralph Seekins**  
District D

## Senate Bill 19 Sponsor Statement

**"An Act relating to the creation of a civil legal services fund."**

This bill is designed to provide a financial mechanism whereby the legislature may make appropriations to organizations that provide civil legal services to low-income Alaskans. This would be accomplished through the creation of a civil legal services account funded by provisions required under AS 09.17.020(j). This section of Alaska law requires that 50% of all punitive damage awards be turned over to the state and deposited into the general fund.

The civil legal needs of economically disadvantaged Alaskans are generally no different than anybody else's. Family law, health, wills and probate issues know no socio-economic boundaries. Yet when these needs arise, self-represented litigants quite often find themselves unable to effectively represent their interests. Furthermore, these situations often place the judge in the inappropriate position of offering legal advice or even mediating between parties.

Since 1966 the Alaska Legal Services Corporation (ALSC) has assisted low-income Alaskans (defined as an individual earning equal to or less than federal poverty guidelines) with their civil legal needs. The ALSC is not a state agency but rather a non-profit entity. The ALSC has been funded by a combination of state, federal and private sources. However, over the last several years these funds have been on the decline.

The inherent logic of the proposed legislation lies in the fact that the funds utilized to assist the disadvantaged in civil legal matters flow out of the civil legal system itself. So, high-stakes civil cases provide the funding mechanism for smaller, but no less important, cases impacting low-income Alaskans. Furthermore, necessary efficiencies are achieved throughout the entire process by working these cases through a non-profit entity such as ALSC.

Senate Bill 19 identifies an ongoing source of funding designed to aid the ALSC in its efforts to provide civil legal assistance to low-income Alaskans. This is accomplished through use of the state's 50% share of civil damage awards deposited to the general fund. It's important to note that the bill does not create a mandatory expenditure. Each legislature possesses an option to appropriate these monies to a civil legal services fund.

SENATE BILL NO. 19

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY SENATOR SEEKINS

Introduced: 1/11/05  
Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the creation of a civil legal services fund."

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

3 \* Section 1. AS 37.05.146(c) is amended by adding a new paragraph to read:

4 (78) civil legal services fund under AS 37.05.590.

5 \* Sec. 2. AS 37.05 is amended by adding a new section to read:

6 Sec. 37.05.590. Civil legal services fund. The civil legal services fund is  
7 established as a special account in the general fund. The fund consists of  
8 appropriations to it. Annually, the legislature may appropriate to the fund the amount  
9 deposited into the general fund of the state under AS 09.17.020(j). The legislature  
10 may make appropriations from the fund to organizations that provide civil legal  
11 services to low-income individuals. Nothing in this section creates a dedicated fund.  
12 In this section, "low-income individual" means an individual with an income equal to  
13 or less than the federal poverty guidelines for Alaska set by the United States  
14 Department of Health and Human Services.

*125% of all funds - 1st year. Estimated*

24-LS0190VG  
Bullock  
1/19/05

**CS FOR SENATE BILL NO. 19(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR SEEKINS**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the creation of a civil legal services fund."**

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

3 **\* Section 1.** AS 37.05.146(c) is amended by adding a new paragraph to read:

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10 may make appropriations from the fund to organizations that provide civil legal  
11 services to low-income individuals. Nothing in this section creates a dedicated fund.  
12 In this section, "low-income individual" means an individual with an income equal to  
13 or less than the maximum income levels for Alaska determined by the Legal Services  
14 Corporation (42 U.S.C. 2996b).

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: CSSB 19(JJD)  
 (S) Publish Date: 1/21/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Gov.  
 Title Civil legal services fund RDU OMB  
 Component OMB  
 Sponsor Sen. Seekins  
 Requester Sen. Judiciary Committee Component No. 2144

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

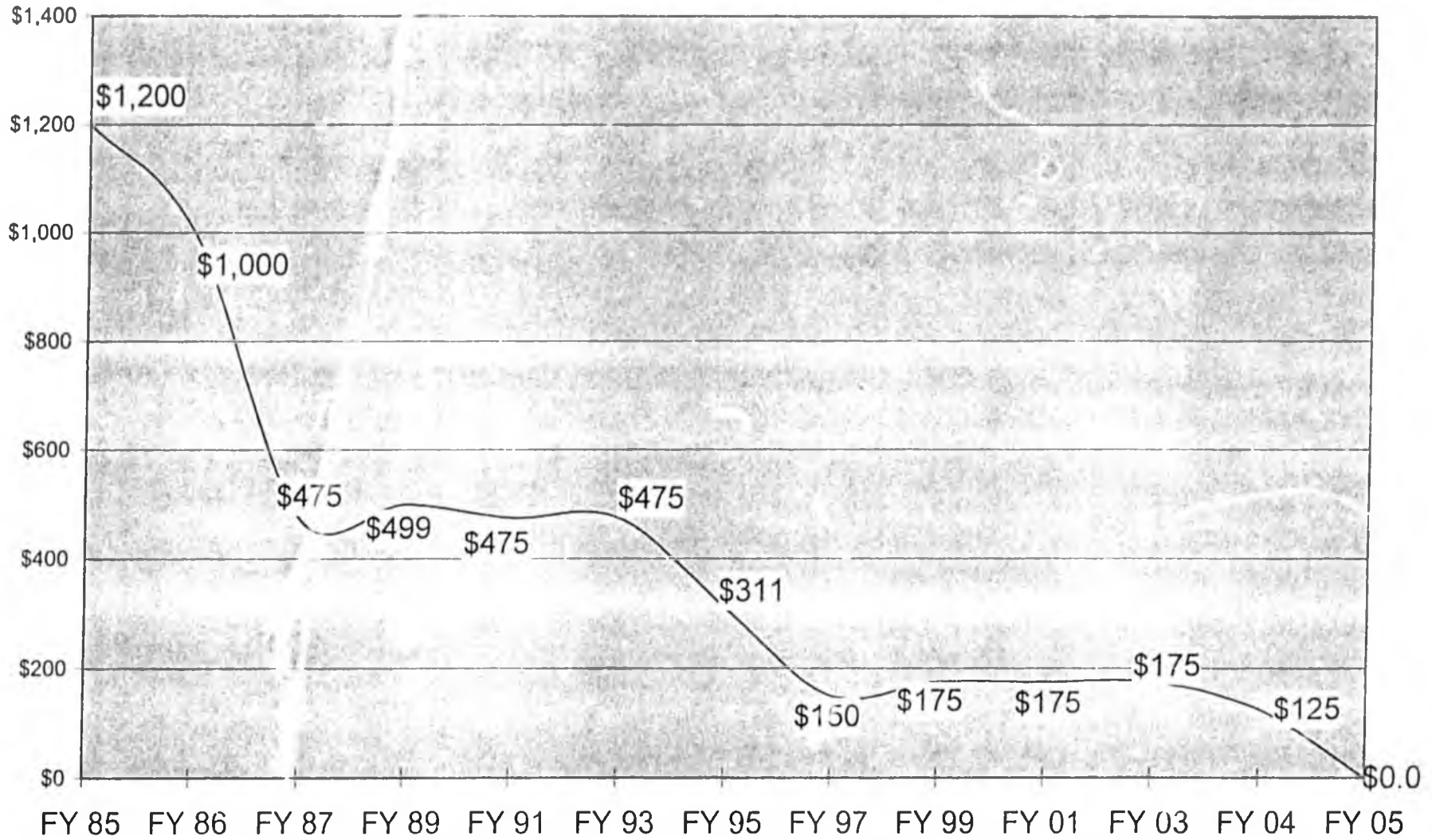
Full-time						
Part-time						
Temporary						

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

This bill would not have a significant fiscal impact on the Office of Management and Budget.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676  
 Division Office of Management and Budget Date/Time 1/18/05 3:00 PM  
 Approved by: Cheryl Frasca, Director Date 1/18/2005  
 Agency Office of Management and Budget

### Alaska Legal Services Corporation State Funding Trends (in Thousands of Dollars)

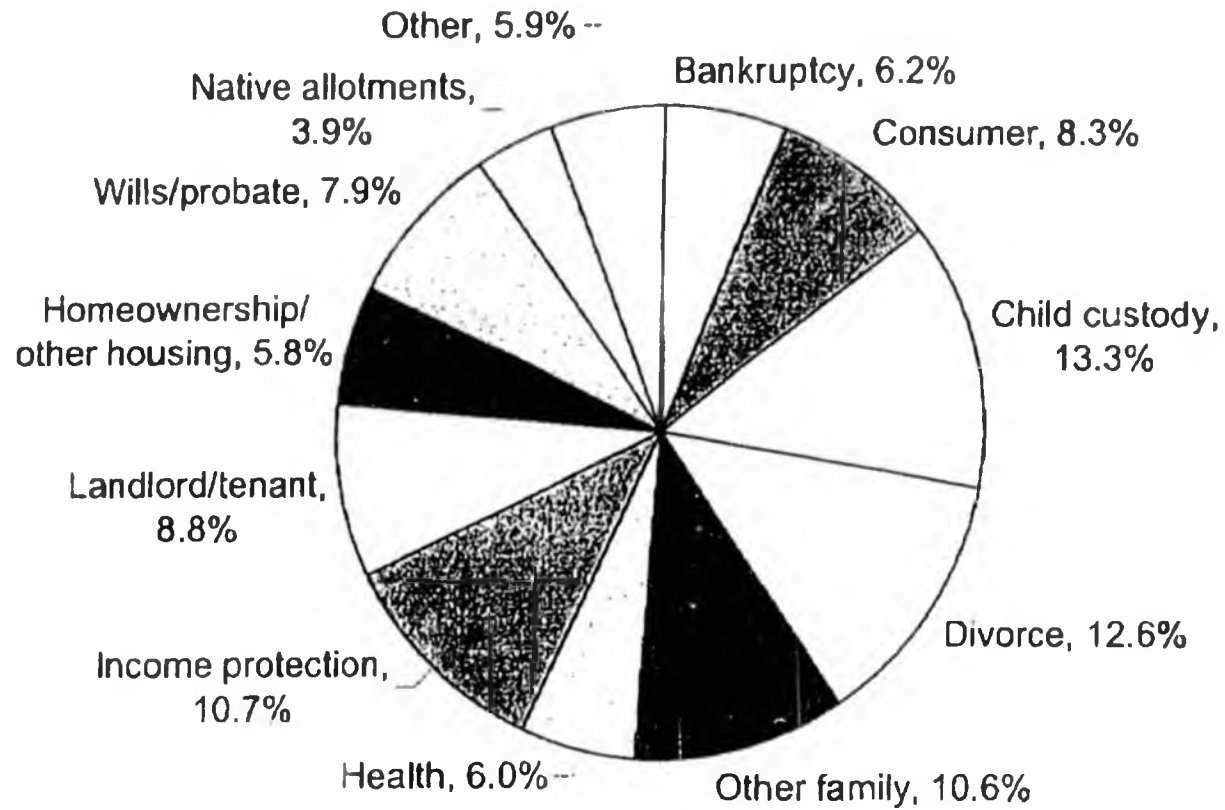


**ALSC Total Support and Revenue**  
(from audited financial statements combining statement of activity)

Total Support and Revenue							
Year	Federal dollars	Federal %	State dollars	State %	Other dollars	Other %	Total
1995	\$ 3,042,915.00	78.6%	\$ 326,288.00	8.4%	\$ 500,343.00	12.9%	\$ 3,869,546.00
1996	\$ 2,828,936.00	80.0%	\$ 260,483.00	7.4%	\$ 446,210.00	12.6%	\$ 3,535,629.00
1997	\$ 1,546,333.00	52.0%	\$ 208,777.00	7.0%	\$ 1,218,312.00	41.0%	\$ 2,973,422.00
1998	\$ 1,335,356.00	47.5%	\$ 225,001.00	7.9%	\$ 1,232,629.00	44.6%	\$ 2,811,246.00
1999	\$ 1,635,232.00	48.5%	\$ 228,735.00	6.8%	\$ 1,510,840.00	44.8%	\$ 3,374,807.00
2000	\$ 1,912,092.00	62.0%	\$ 294,017.00	9.5%	\$ 879,042.00	28.5%	\$ 3,085,151.00
2001	\$ 1,820,116.00	55.1%	\$ 221,258.00	6.7%	\$ 1,263,194.00	38.2%	\$ 3,304,568.00
2002	\$ 1,981,742.00	59.4%	\$ 316,764.00	9.5%	\$ 1,035,136.00	31.1%	\$ 3,333,642.00
2003	\$ 2,308,101.00	63.2%	\$ 327,276.00	9.0%	\$ 1,015,312.00	27.8%	\$ 3,650,689.00

Note: support and revenue includes: grants and contracts; interest income; litigation income; donated services; gain on disposition of property; and other.

### ALSC: cases closed in 2004 by subject matter



ALASKA LEGAL SERVICES CORPORATION				
FISCAL YEAR 2004 REVENUE BUDGET WORKSHEET (12-03-04)				
FOR THE PERIOD FROM JANUARY 1, 2004 TO DECEMBER 31, 2004				
GRANT DESCRIPTION:	PROJECTED	PROJECTED	ACTUAL FISCAL	ACTUAL FISCAL
	FISCAL YEAR 2004 01/01/04-12/31/04	FISCAL YEAR 2005 01/01/05-12/31/05	YEAR 21 03 01/01/03-12/31 03	YEAR 2002 01/01/02-12/31/02
LSC BASIC FIELD (101)	\$ 881,292.05	\$ 881,012.00	\$ 889,178.38	\$ 532,560.48
NET ASSETS-(101)	\$ 64,473.14	\$ -	\$ -	\$ -
LSC NATIVE AMERICAN (102)	\$ 498,749.30	\$ 498,283.00	\$ 567,898.55	\$ 495,465.07
LSC TECHNOLOGY GRANT-(103)	\$ -	\$ -	\$ 1,113.81	\$ 28,128.81
LSC TECHNOLOGY GRANT-(104)	\$ -	\$ -	\$ 20,913.39	\$ 4,086.61
LSC TECHNOLOGY GRANT-(105)	\$ 48,087.25	\$ -	\$ 78,451.47	\$ 4,703.77
LSC TECHNOLOGY GRANT 03681-(106)	\$ 3,125.00	\$ 21,875.00	\$ -	\$ -
AK OFFICE ON AGING-SFY 02-(206)	\$ -	\$ -	\$ -	\$ 80,486.00
AK OFFICE ON AGING-CAREGIVER-SFY 01 (207)	\$ -	\$ -	\$ -	\$ 21,408.48
AK OFFICE ON AGING-SFY 03-(208)	\$ -	\$ -	\$ 89,502.88	\$ 88,559.78
AK OFFICE ON AGING-CAREGIVER-SFY 03 (209)	\$ -	\$ -	\$ 31,448.48	\$ 23,147.29
AK OFFICE ON AGING-EQUIP GT-SFY 03 (210)	\$ -	\$ -	\$ 2,073.00	\$ -
AK OFFICE ON AGING-SFY 04-(211)	\$ 88,459.34	\$ -	\$ 64,976.47	\$ -
AK OFFICE ON AGING-CAREGIVER-SFY 04 (212)	\$ 21,448.89	\$ -	\$ 30,551.31	\$ -
AK OFFICE ON AGING-SFY 05-(213)	\$ 86,079.50	\$ 66,079.50	\$ -	\$ -
AK OFFICE ON AGING-CAREGIVER-SFY 05 (214)	\$ 26,000.00	\$ 26,000.00	\$ -	\$ -
AK OFFICE ON AGING-SFY 06-(215)	\$ -	\$ 66,079.50	\$ -	\$ -
AK OFFICE ON AGING-CAREGIVER-SFY 06 (216)	\$ -	\$ 26,000.00	\$ -	\$ -
KAWERAK ALLOTMENT CT-(302)	\$ 385,983.85	\$ 385,088.00	\$ 355,352.84	\$ 349,455.52
NET ASSETS-(302)	\$ 130,350.95	\$ -	\$ 81,162.87	\$ 41,316.84
DEPT OF JUSTICE DV GRANT-2001-(303)	\$ 40,058.05	\$ -	\$ 81,873.09	\$ 118,293.28
DEPT OF JUSTICE DV GRANT-2003-(303)	\$ 231,817.50	\$ 200,902.72	\$ 82,888.15	\$ -
DOJ-VAWA-SUBGRANT (307)	\$ 85,525.71	\$ 76,293.50	\$ 56,331.53	\$ 650.49
NATIVE ALLOTMENT TRAINING GTS (308)	\$ 90,301.37	\$ -	\$ 39,920.33	\$ 301.24
ANA SUBGRANT THROUGH AITC (309)	\$ 43,818.53	\$ -	\$ 360.00	\$ -
INDIAN TRIBAL JUSTICE T&LLA (310)	\$ 15,224.17	\$ 45,524.76	\$ -	\$ -
ALASKA C&ED GT-SFY 02-(411)	\$ -	\$ -	\$ -	\$ 82,500.00
ALASKA H&SS GT-SFY 02-(412)	\$ -	\$ -	\$ -	\$ 25,016.47
ALASKA CHILDREN'S TRUST GT-SFY 02 (413)	\$ -	\$ -	\$ -	\$ 23,980.40
ALASKA C&ED GT-SFY 03-(414)	\$ -	\$ -	\$ -	\$ 125,000.00
ALASKA H&SS GT-SFY 03-(415)	\$ -	\$ -	\$ 23,681.81	\$ 26,310.19
ALASKA CHILDREN'S TRUST GT-SFY 03 (416)	\$ -	\$ -	\$ 8,971.37	\$ 18,029.84
AK MENTAL HEALTH CONS WEB-SFY 03-(417)	\$ -	\$ -	\$ 41,201.29	\$ 4,689.88
ALASKA C&ED GT-SFY 04-(418)	\$ 42,896.00	\$ -	\$ 82,300.00	\$ -
ALASKA CHILDREN'S TRUST GT-SFY 04 (419)	\$ 3,337.00	\$ -	\$ 14,660.00	\$ -
AK MENTAL HEALTH TRUST AUTH-SFY 04 (420)	\$ 25,472.84	\$ -	\$ 24,521.16	\$ -
C&S MGMT ASSOCIATES T 47 6G-SFY 04 (421)	\$ 7,521.28	\$ -	\$ 2,711.62	\$ -
AK MENTAL HEALTH TRUST AUTH-SFY 05 (422)	\$ 25,000.00	\$ 40,000.00	\$ -	\$ -
ALASKA CHILDREN'S TRUST GT-SFY 05 (423)	\$ 9,002.48	\$ 9,000.00	\$ -	\$ -
AK MENTAL HEALTH TRUST AUTH-SFY 06 (424)	\$ -	\$ 25,000.00	\$ -	\$ -
ALASKA CHILDREN'S TRUST GT-SFY 06 (425)	\$ -	\$ 4,500.00	\$ -	\$ -
MUNI OF ANCHORAGE-SFY 02-(520)	\$ -	\$ -	\$ -	\$ 14,308.00
MUNI OF ANCHORAGE-SFY 03/04-(521)	\$ 18,492.00	\$ -	\$ 99,231.00	\$ 21,911.00
MUNI OF ANCHORAGE-SFY 03/04-(522)	\$ 14,895.00	\$ -	\$ 77,821.00	\$ 16,550.00
MUNI OF ANCHORAGE-SFY 06-(523)	\$ 58,044.00	\$ 56,044.00	\$ -	\$ -
MUNI OF ANCHORAGE-SFY 05-(524)	\$ 54,800.00	\$ 111,975.00	\$ -	\$ -
MUNI OF ANCHORAGE-SFY 06-(525)	\$ -	\$ 68,044.00	\$ -	\$ -
BARROW OFFICE LOCAL SUPPORT-01-(535)	\$ -	\$ -	\$ -	\$ 8,278.18

ALASKA LEGAL SERVICES CORPORATION				
FISCAL YEAR 2004 REVENUE BUDGET WORKSHEET (12-03-04)				
FOR THE PERIOD FROM JANUARY 1, 2004 TO DECEMBER 31, 2004				
GRANT DESCRIPTION:	PROJECTED FISCAL YEAR 2004 01/01/04-12/31/04	PROJECTED FISCAL YEAR 2006 01/01/06-12/31/06	ACTUAL FISCAL YEAR 2003 01/01/03-12/31/03	ACTUAL FISCAL YEAR 2002 01/01/02-12/31/02
NORTH SLOPE BOROUGH-SFY 02-(537)	\$ -	\$ -	\$ -	\$ 28,806.10
NORTH SLOPE BOROUGH-SFY 03-(538)	\$ -	\$ -	\$ 40,033.4	\$ 6,683.35
NORTH SLOPE BOROUGH-SFY 04-(539)	\$ 37,725.78	\$ -	\$ 12,274.2	\$ -
NORTH SLOPE BOROUGH-SFY 05-(531)	\$ 25,000.00	\$ 25,000.00	\$ -	\$ -
FBX NORTH STAR BOROUGH-SFY 02-(556)	\$ -	\$ -	\$ -	\$ 25,000.00
FBX NORTH STAR BOROUGH-SFY 03-(557)	\$ -	\$ -	\$ 25,000.00	\$ 25,000.00
FBX NORTH STAR BOROUGH-SFY 04-(558)	\$ 24,708.00	\$ -	\$ 25,292.00	\$ -
FBX NORTH STAR BOROUGH-SFY 05-(569)	\$ 24,919.50	\$ 24,919.50	\$ -	\$ -
FBX NORTH STAR BOROUGH-SFY 06-(551)	\$ -	\$ 24,919.60	\$ -	\$ -
CITY/BOROUGH OF JUNEAU-SFY 02-(568)	\$ -	\$ -	\$ -	\$ 26,105.50
CITY/BOROUGH OF JUNEAU-SFY 03-(569)	\$ -	\$ -	\$ 10,027.00	\$ 10,027.00
CITY OF KETCHIKAN-02-(579)	\$ -	\$ -	\$ -	\$ 22,000.00
CITY OF KETCHIKAN-03-(571)	\$ -	\$ -	\$ 22,007.7	\$ -
CITY OF KETCHIKAN-04-(572)	\$ 22,022.58	\$ -	\$ -	\$ -
CITY OF KETCHIKAN-05-(573)	\$ -	\$ 22,000.00	\$ -	\$ -
AK BAR FOUNDATION-IOLTA-SFY 02-(606)	\$ -	\$ -	\$ 31,850.17	\$ 43,812.81
AK BAR FOUNDATION-IOLTA-SFY 03-(607)	\$ 7,993.93	\$ -	\$ 42,939.31	\$ 29,475.00
AK BAR FOUNDATION-IOLTA-SFY 04-(608)	\$ 14,250.22	\$ -	\$ 28,224.76	\$ -
AK BAR FOUNDATION-IOLTA-SFY 05-(809)	\$ 17,170.00	\$ 16,170.00	\$ -	\$ -
AK BAR FOUNDATION-IOLTA-SFY 08-(810)	\$ -	\$ 16,170.00	\$ -	\$ -
TRIBAL WORK CONTRACTS (700)	\$ -	\$ -	\$ -	\$ 357.81
NET ASSETS-(700)	\$ -	\$ -	\$ -	\$ 6,260.52
NOME OFFICE DONATIONS (709)	\$ 23,290.50	\$ -	\$ 43,522.10	\$ 37,338.83
LOCAL FUNDING-DILLINGHAM OFFICE-(710)	\$ -	\$ -	\$ 2,004.12	\$ 1,500.00
MANILAQ KOTZEBUE OFFICE GRANT-02 (713)	\$ -	\$ -	\$ -	\$ 143,272.21
BRISTOL BAY NATIVE ASSN GRANTS (714)	\$ 57,015.58	\$ 57,000.00	\$ 57,118.58	\$ 27,864.82
NET ASSETS-(714)	\$ 18,038.51	\$ -	\$ 42,350.71	\$ -
MANILAQ KOTZEBUE OFFICE GRANT-03 (715)	\$ -	\$ -	\$ 143,193.32	\$ 57,367.53
MANILAQ KOTZEBUE OFFICE GRANT-04 (716)	\$ 141,720.06	\$ -	\$ 54,078.33	\$ -
MANILAQ KOTZEBUE OFFICE GRANT-05 (717)	\$ 58,700.00	\$ 178,100.00	\$ -	\$ -
KOTZEBUE IRA-ICWA CONTRACT-05 (718)	\$ 1,866.87	\$ 3,333.33	\$ -	\$ -
KOTZEBUE IRA-GENERAL CONTRACT-05 (719)	\$ 1,866.67	\$ 3,333.33	\$ -	\$ -
MANILAQ KOTZEBUE OFFICE GRANT-06 (720)	\$ -	\$ 58,700.00	\$ -	\$ -
PARTNERS IN JUSTICE CONTRIBUTIONS (802)	\$ 99,903.39	\$ 85,800.00	\$ 113,052.00	\$ 107,883.19
PARTNERS IN JUSTICE NET ASSETS-(802)	\$ 170,898.13	\$ -	\$ 140,406.73	\$ 112,984.98
UNRESTRICTED FUND (901)	\$ 1,534.85	\$ -	\$ 4,973.81	\$ 60,784.92
CONVENANT HOUSE CONTRACT (911)	\$ -	\$ -	\$ 845.00	\$ 3,386.50
NAPIL HOUSING GRANT-02 (912)	\$ -	\$ -	\$ -	\$ 39,429.39
RASMUSON FOUNDATION (913)	\$ 65,980.45	\$ -	\$ 24,780.73	\$ 24,530.39
UNITED WAY PREMIERA CASE WORK (914)	\$ 48,988.34	\$ -	\$ 41,116.05	\$ -
RASMUSON FOUNDATION (915)	\$ 14,068.00	\$ -	\$ -	\$ 24,530.39
INDIAN LAND TENURE FOUNDATION GT (916)	\$ 28,484.87	\$ 51,118.71	\$ -	\$ -
AMERICAN COLLEGE OF BANKRUPTCY GT (917)	\$ 4,005.78	\$ -	\$ -	\$ -
AK NATIVE JUSTICE CENTER CONTRACT (918)	\$ 3,750.00	\$ 26,250.00	\$ -	\$ -
<b>TOTAL REVENUE BUDGET</b>	<b>\$ 3,640,458.56</b>	<b>\$ 2,990,505.30</b>	<b>\$ 3,523,901.17</b>	<b>\$ 3,088,325.58</b>
<b>LESS:</b>				
KAWERAK ALLOTMENT CT-(302)	\$ 516,334.80	\$ 385,068.00	\$ 416,601.31	\$ 349,455.52
NATIVE ALLOTMENT TRAINING GTS (308)	\$ 90,301.37	\$ -	\$ 39,921.33	\$ 301.24
INDIAN LAND TENTURE FOUNDATION GT (916)	\$ 28,484.87	\$ 51,118.71	\$ -	\$ -
<b>ADJUSTED REVENUE BUDGET</b>	<b>\$ 3,014,327.52</b>	<b>\$ 2,554,318.65</b>	<b>\$ 3,067,477.53</b>	<b>\$ 2,738,568.82</b>

# LEGAL SERVICES

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

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

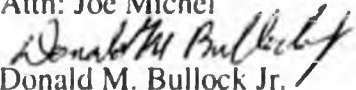
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 20, 2005

**SUBJECT:** 42 U.S.C. 2996b (CSSB 19(JUD))

**TO:** Senator Ralph Seekins  
Attn: Joe Michel

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

During the meeting of the Senate Judiciary Committee this morning, a committee member thought that the "b" in 42 U.S.C. 2996b, cited in the last line of the bill, should be in parentheses.

In this particular citation, as well as in a number of other provisions in the United States Code, the section citation includes a letter. For your information, the cited code section is as follows:

### 42 U.S.C. § 2996b. Legal Services Corporation

(a) Establishment; purpose. There is established in the District of Columbia a private nonmembership nonprofit corporation, which shall be known as the Legal Services Corporation, for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance.

(b) Principal office; agent for service of process. The Corporation shall maintain its principal office in the District of Columbia and shall maintain therein a designated agent to accept service of process for the Corporation. Notice to or service upon the agent shall be deemed notice to or service upon the Corporation.

(c) Status of corporation under tax laws. The Corporation, and any legal assistance program assisted by the Corporation, shall be eligible to be treated as an organization described in *section 170(c)(2)(B) of the Internal Revenue Code of 1954 [26 USCS § 170(c)(2)(B)]* and as an organization described in *section 501(c)(3) of the Internal Revenue Code of 1954 [26 USCS § 501(c)(3)]* which is exempt from taxation under section 501(a) of such Code [26 USCS § 501(a)]. If such treatments are conferred in accordance with the provisions of such Code [26 USCS § § 1 et seq.], the

Senator Ralph Seekins

January 20, 2005

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Corporation, and legal assistance programs assisted by the Corporation, shall be subject to all provisions of such Code [26 USCS § § 1 et seq.] relevant to the conduct of organizations exempt from taxation.

If I may be of further assistance, please advise.

DMB:jad

05-034.jad