

11874 SENATE JUDICIARY

However, Baker says that absolute honesty is the most important point in the program because it helps offenders regain accountability for their actions. "If an offender violates their probation, they must tell on themselves," Baker explains. "Based on the violation, I modify the terms of the program."

In one case, an offender called Baker to confess he was drinking and that he should be put in jail. The next day, in court when he was sober, he protested when Baker modified his probation to include jail. Baker matter-of-factly states, "I was doing what he had asked and sent him to jail."

The numbers testify to Baker's success. In more than three years, slightly more than 1 percent of the participants have re-offended. But it is the gratitude from those who have gone through the program and their families that speaks volumes. Wives call crying to thank her. Parents beg her to take their other children into the program even though no crime has been committed. And, she receives an abundance of appreciation from those who have turned their lives around and graduated from the program.

When asked about the success of DISP, Baker says, "Be dedicated to consistency and work based on that. Any community can create a program like this. All it takes is communication and dedication among the criminal justice community."

Where the justice system has failed to make an impact on drunk driving by rendering standard sentencing, judges nationwide are successfully using personalized programs and creative sanctions. This individualized approach aims to not only punish offenders for their crimes, but to rehabilitate them as well, thus helping to reduce drunk driving recidivism and make the streets safer for everyone. Through the efforts of Judges Todd, Poe, Baker and thousands like them, the criminal justice system is helping to solve the nation's drunk driving problem one case at a time.

This information is brought to you courtesy of Mothers Against Drunk Driving – find us online at <http://www.madd.org/>.

The mission of MADD is to stop drunk driving, support the victims of this violent crime, and prevent underage drinking.



Higher Risk Driver Fact Sheet

Higher-Risk Drivers: The Problem & Proven Solutions

Higher-Risk Driver: MADD defines the "higher-risk driver" as 1) Repeat offenders convicted (conviction is defined as receiving a court-imposed sanction) of a second driving-under-the-influence offense within a 5- year period; 2) High BAC offenders convicted of a driving-under-the-influence offense with a BAC of .15% or higher, and/or 3) Driving-while-suspended (DWS) where the suspension was the result of a conviction for driving under the influence.

THE PROBLEM

Repeat Offenders:

- About one-third of all drivers arrested or convicted of driving under the influence are repeat offenders. These drivers are 40% more likely to be involved in a fatal crash than those without prior DUIs.¹

High-BAC Offenders:

- 58% of alcohol-related traffic fatalities in 2001 involved drivers with a BAC of .15% and above.² These drivers are at least 382 times more likely to be involved in a fatal crash than a non-drinking driver.¹⁷
- During a typical weekend night, 1% of drivers will have a blood alcohol concentration (BAC) of .15 or higher.¹³

Offenders Who Drive on a Suspending License:

- 50-75% of drunk drivers whose licenses are suspended continue to drive.¹⁴
- 32% of suspended second-time offenders and 61% of suspended third-time offenders received violations or were involved in crashes during their suspensions.³
- Generally, unlicensed drivers are 4.9 times more likely to be involved in a fatal crash than properly licensed drivers.¹⁶

Drivers Who Refuse a BAC Test:

- Depending on the state, 3% to 59% of those under suspicion for DUI/DWI refused to take a BAC test.¹⁵
- Not surprisingly, those states that did not sanction those who refuse the test more than those who take the test had higher refusal rates. Also, offenders who refuse the test tend to have higher recidivism rates and more previous offenses.

MADD SOLUTIONS: THE THREE R'S

Restrictions on Driving:

- Restrict vehicle operation by suspending licenses, impounding or immobilizing vehicles, and requiring alcohol ignition interlock devices on offenders' vehicles.
 - Studies show that license revocation laws can decrease fatal late-night crashes by 9%.⁶
 - Interlock systems have reduced repeat DWI offenses among convicted drinking drivers in Maryland⁷, California⁸ and other states^{9,10} by 65% to 90%.

- o License suspension was effective in reducing DWI offenses among convicted drinking drivers in Ohio⁴. After two years, there were lower rates of moving violations and crashes compared with DUI offenders convicted before the law went into effect and this reduction significantly reduced alcohol-related fatalities.
- o Vehicle impoundment has reduced DWI offenses among convicted drinking drivers. First-time offenders who had their vehicles impounded had 25% fewer crashes and repeat offenders had 38% fewer crashes than similar offenders who had access to their vehicles in California.⁵

Restitution Sanctions:

- Require compensation to the community through fines, mandatory incarceration and financial restitution to crash victims.
 - o Community service has little or no impact on reducing recidivism. However, some judges use creative sentencing and restitution sanctions to create more meaning from sanctions.
 - o Fines and court fees can be used to offset the costs of law enforcement efforts to crack down on drunk drivers and to pay the cost of treatment programs. They can also fund special minimum-security facilities for DUI offenders.

Recovery Provisions:

- Promote recovery programs through mandatory alcohol assessment and treatment, intensive probation and attendance at victim impact panels.
 - o Over 70% of DUI offenders have alcohol abuse problems and between 10% and 50% were alcohol dependent.¹¹ Repeat offenders are the most likely to be alcohol dependent.
 - o A 1995 study found that DUI offenders who participated in treatment programs had a 7-9% reduction in recidivism over those who had no treatment.¹²

Citations:

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3. National Highway Traffic Safety Administration. Vehicle and License Plate Sanctions: Legislative Fact Sheet. January 2003.
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5. DeYoung, D. J. (1997, November). An evaluation of the specific deterrent effect on vehicle impoundment on suspended, revoked and unlicensed drivers in California. (Final Report No. DOT HS 808 727). Washington, DC: Department of Transportation, National Highway Traffic Safety Administration (NHTSA).
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10. Coben, J.H., and Larkin, G.L. Effectiveness of ignition interlock devices in reducing drunk driving recidivism. *American Journal of Preventive Medicine* 16(1S):81-87, 1999.
11. Weczorek, WF; Miller, BA; and Nochajski, TH. (1992). Multiple and single location drinking among DWI offenders referred for alcoholism evaluation. *American Journal of Drug and Alcohol Abuse*, Vol. 18, No. 1, 1992, pp. 103-116
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14. Nichols, J.L., and Ross, H.L. The effectiveness of legal sanctions in dealing with drinking drivers. *Alcohol, Drugs and Driving* 6(2):33-55, 1990.
15. MADD Rating the States 2002 data.
16. Scopatz, R.A., Hatch, C.E., Delucia, B.H., and K.A. Tays. *Unlicensed to Kill: The Sequel*. AAA Foundation for Traffic Safety. January 2003.
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HB

148

SENATE COMMITTEE REPORT

DATE: 5/5/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 148(JUD)

HB 148 TRAFFICKING OF PERSONS

"An Act relating to human trafficking; and providing for an effective date."

and recommends:

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

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____


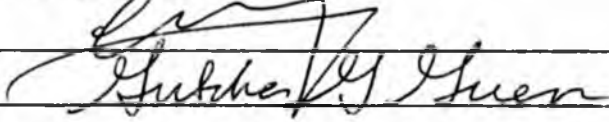
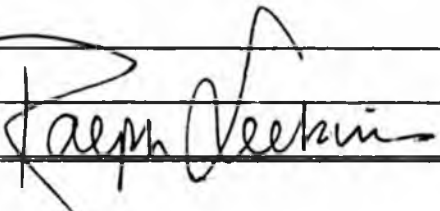
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

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

24-LS0449\Y
Luckhaupt
1/26/06

SENATE CS FOR CS FOR HOUSE BILL NO. 148(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

**Sponsor(s): REPRESENTATIVES KERTTULA, Croft, Gara, Gruenberg, McGuire, Dahlstrom, LeDoux,
Lynn, Berkowitz, Gardner**

SENATORS Elton, Dyson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to human trafficking; and providing for an effective date."**

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

3 *** Section 1. AS 11.41 is amended by adding new sections to read:**

4 **Sec. 11.41.310. Human trafficking in the first degree.** (a) A person
5 commits the crime of human trafficking in the first degree if the person compels or
6 induces another person to come to this state to engage in sexual conduct, adult
7 entertainment, or labor in the state by force or threat of force against any person, or by
8 deception.

9 (b) In this section,

10 (1) "adult entertainment" means the conduct described in
11 AS 23.10.350(f)(1) - (3);

12 (2) "deception" has the meaning given in AS 11.46.180;

13 (3) "sexual conduct" has the meaning given in AS 11.66.150.

14 (c) Human trafficking in the first degree is a class A felony.

15 **Sec. 11.41.315. Human trafficking in the second degree.** (a) A person

1 commits the crime of human trafficking in the second degree if the person obtains a
2 benefit from the commission of human trafficking under AS 11.41.310, with reckless
3 disregard that the benefit is a result of the trafficking.

4 (b) Human trafficking in the second degree is a class B felony.

5 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c). *

#1



Representative Beth Kerttula

Alaska State Legislature District 3

HB 148

TRAFFICKING OF PERSONS SPONSOR STATEMENT

The U.S. State Department estimates that between 600,000 – 800,000 men, women and children are trafficked across international borders every year. Traffickers lure victims to other countries with the promise of a better life and good paying jobs. However, once traffickers have them under their control victims are subjected to forced labor, sexual exploitation and involuntary servitude. Profits from trafficking fuel the growth of organized crime in the United States and worldwide.

Alaska is not immune to the horrors of human trafficking. In 2001, three men were convicted of sex trafficking six Russian women and girls under the federal Victims of Trafficking and Violence Protection Act of 2000. There are indications that trafficking continues in our state. This bill was introduced to help the victims of this modern day slavery.

HB 148 would criminalize the trafficking of persons by making it a felony in the State of Alaska so that traffickers can be prosecuted at the state as well as the federal level. Under HB 148, a person commits the crime of trafficking of persons if they compel or induce another person to come to this state to engage in sexual conduct, adult entertainment, or labor in the state by force or threat of force against any person, or by deception. The crime of trafficking also includes a person who benefits from the commission of human trafficking with reckless disregard that the benefit is a result of the trafficking.

Human trafficking is abhorrent and must be stopped. HB 148 will allow the state to prosecute those who bring this terrible practice to Alaska.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Frank H. Murkowski, Governor

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-2075

October 14, 2005

Honorable Senator Ralph Seekins
119 N. Cushman Rd Ste 201
Fairbanks, AK 99701

Re: Human Trafficking

Dear Sen. Seekins:

Enclosed for your review are materials related to human trafficking. HB 148 "An Act relating to human trafficking: and providing for an effective date" is pending in your committee.

Sincerely,



Randy Ruaro
Assistant Attorney General

Enclosure

I:RR:DRAFTS:SEEKINS:10.14.05



Office of the Attorney General

Washington, D. C. 20530

April 25, 2005

RECEIVED

DEPARTMENT OF LAW

AUG 18 2005

CRIMINAL DIVISION CENTRAL OFFICE
ANCHORAGE, ALASKA

RECEIVED

MAY - 9 2005

GOVERNOR'S OFFICE

The Honorable Frank H. Murkowski
Governor of Alaska
Juneau, AK 99811

Dear Governor Murkowski:

I am writing to you regarding one of the most important criminal justice initiatives of this administration—combating the crime of human trafficking. As many as 17,500 people each year are trafficked into the United States and exploited in sweatshops, domestic servitude, pornography, and prostitution. As President George W. Bush has said, "This trade in human beings brings suffering to the innocent and shame to our country, and we will lead the fight against it."

The United States—at every level of government and throughout civil society—is thus called upon to act energetically and effectively against this blight on our nation's tradition of freedom. I therefore commend your legislature's consideration of anti-trafficking legislation, and I urge you to propose that the legislature adopt the enclosed "Model State Anti-Trafficking Criminal Statute."

The model statute was drafted by Department of Justice prosecutors with direct experience in combating trafficking, and I believe that adopting it would significantly enhance your state's efforts to fight this form of modern-day slavery. The model statute represents a practical step to foster an effective, seamless partnership among federal, state, and local efforts. I believe that the adoption of the model statute will help combat trafficking in three ways.

First, adopting the model statute will help ensure that there are no legal gaps in the nation's efforts to combat trafficking. Currently, human trafficking is predominantly a federal crime. Even though trafficking is a congressional and Administration priority, the Federal Government cannot combat it alone. Your law enforcement and social services agencies are more likely than their federal counterparts to encounter victims and to unearth trafficking cases by virtue of their local expertise, greater numbers and street-level presence. We in the Federal Government need your help.

Second, adopting the model statute will promote a more effective national legal strategy to combat human trafficking. Federal experience has shown that prior to the enactment of the federal Trafficking Victims Protection Act of 2000, criminal statutes did

not adequately address the crime that we have come to recognize as trafficking. Comprehensive legislation is necessary. For example, trafficking-like crimes are sometimes codified in seemingly unrelated parts of a state code such as those dealing with kidnapping or prostitution. Recent experience at the federal level indicates that a more structured approach reduces confusion and, importantly, undercharging.

Additionally, the model statute will facilitate uniformity both among states and between the states and the Federal Government; thereby promoting greater coordination and reducing confusion on the part of both victims and law enforcement. In the case of victims, for example, the model statute will help trafficking victims in state prosecutions when they seek the victim protections available through the Department of Health and Human Services and the Department of Homeland Security. Uniform laws will help ensure that state and local officials and their federal counterparts are on the same page and speaking the same language when trafficking victims require assistance.

Third, the model statute provides an example of what we have found at the federal level to be the most effective legislative approach to deal with trafficking. The model statute is based on the Federal Government's experience, to date, in investigating and prosecuting such cases and substantially mirrors the federal Trafficking Victims Protection Act of 2000 and its 2003 reauthorization.

I applaud the outstanding efforts of a growing number of states, localities, and federal territories to develop more effective approaches to combat trafficking. I hope that you will examine the model statute and consider it when crafting your own anti-trafficking law. Most of all, I hope it will make our combined, integrated effort to combat trafficking more effective.

Thank you very much for your attention to this pressing matter.

Sincerely,



Alberto R. Gonzales
Attorney General

Enclosure

MODEL STATE ANTI-TRAFFICKING CRIMINAL STATUTE

AN ACT relating to criminal consequences of conduct
that involves certain trafficking of persons and involuntary servitude.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF _____:

(A) TITLE _____, PENAL CODE, is amended by adding Article XXX to read as follows:

ARTICLE XXX: TRAFFICKING OF PERSONS AND INVOLUNTARY SERVITUDE

SEC. XXX.01. DEFINITIONS. In this Article:

- (1) "Blackmail" is to be given its ordinary meaning as defined by [state blackmail statute, if any] and includes but is not limited to a threat to expose any secret tending to subject any person to hatred, contempt, or ridicule.
- (2) "Commercial sexual activity" means any sex act on account of which anything of value is given, promised to, or received by any person.
- (3) "Financial harm" includes credit extortion as defined by [state extortion statute, if any], criminal violation of the usury laws as defined by [state statutes defining usury], or employment contracts that violate the Statute of Frauds as defined by [state statute of frauds].
- (4) "Forced labor or services" means labor, as defined in paragraph (5), *infra*, or services, as defined in paragraph (8), *infra*, that are performed or provided by another person and are obtained or maintained through an actor's:
 - (A) causing or threatening to cause serious harm to any person;
 - (B) physically restraining or threatening to physically restrain another person;
 - (C) abusing or threatening to abuse the law or legal process;
 - (D) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;
 - (E) blackmail; or
 - (F) causing or threatening to cause financial harm to [using financial control over]

any person.

- (5) "Labor" means work of economic or financial value.
- (6) "Maintain" means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type of service.
- (7) "Obtain" means, in relation to labor or services, to secure performance thereof.
- (8) "Services" means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of "services" under this Section. Nothing in this provision should be construed to legitimize or legalize prostitution.
- (9) "Sexually-explicit performance" means a live or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.
- (10) "Trafficking victim" means a person subjected to the practices set forth in Sections XXX.02(1) (involuntary servitude) or XXX.02(2) (sexual servitude of a minor), or transported in violation of Section XXX.02(3) (trafficking of persons for forced labor or services).

SEC. XXX.02. CRIMINAL PROVISIONS.

- (1) INVOLUNTARY SERVITUDE. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services shall be punished by imprisonment as follows, subject to Section (4), infra:
 - (A) by causing or threatening to cause physical harm to any person, not more than 20 years;
 - (B) by physically restraining or threatening to physically restrain another person, not more than 15 years;
 - (C) by abusing or threatening to abuse the law or legal process, not more than 10 years;
 - (D) by knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person, not more than 5 years,

(E) by using blackmail, or using or threatening to cause financial harm to [using financial control over] any person, not more than 3 years.

(2) **SEXUAL SERVITUDE OF A MINOR.** Whoever knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, provide, or obtain by any means, another person under 18 years of age, knowing that the minor will engage in commercial sexual activity, sexually-explicit performance, or the production of pornography (see [relevant state statute] (defining pornography)), or causes or attempts to cause a minor to engage in commercial sexual activity, sexually-explicit performance, or the production of pornography, shall be punished by imprisonment as follows, subject to the provisions of Section (4), infra:

(A) in cases involving a minor between the ages of [age of consent] and 18 years, not involving overt force or threat, for not more than 15 years;

(B) in cases in which the minor had not attained the age of [age of consent] years, not involving overt force or threat, for not more than 20 years;

(C) in cases in which the violation involved overt force or threat, for not more than 25 years.

(3) **TRAFFICKING OF PERSONS FOR FORCED LABOR OR SERVICES.** Whoever knowingly (a) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services; or (b) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of Sections XXX.02(1) or (2) of this Title, shall, subject to the provisions of Section (4) infra, be imprisoned for not more than 15 years.

(4) **SENTENCING ENHANCEMENTS.**

(A) Statutory Maximum - Rape, Extreme Violence, and Death. If the violation of this Article involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life [or death].

(B) Sentencing Considerations Within Statutory Maximums.

(1) Bodily Injury. If, pursuant to a violation of this Article, a victim

suffered bodily injury, the sentence may be enhanced as follows: (1) Bodily injury, an additional ____ years of imprisonment; (2) Serious Bodily Injury, an additional ____ years of imprisonment; (3) Permanent or Life-Threatening Bodily Injury, an additional ____ years of imprisonment; or (4) If death results, defendant shall be sentenced in accordance with Homicide statute for relevant level of criminal intent).

(2) Time in Servitude. In determining sentences within statutory maximums, the sentencing court should take into account the time in which the victim was held in servitude, with increased penalties for cases in which the victim was held for between 180 days and one year, and increased penalties for cases in which the victim was held for more than one year.

(3) Number of Victims. In determining sentences within statutory maximums, the sentencing court should take into account the number of victims, and may provide for substantially-increased sentences in cases involving more than 10 victims.

(5) RESTITUTION. Restitution is mandatory under this Article. In addition to any other amount of loss identified, the court shall order restitution including the greater of 1) the gross income or value to the defendant of the victim's labor or services or 2) the value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) and [corresponding state statutes if any].

(B) TRAFFICKING VICTIM PROTECTION

1) ASSESSMENT OF VICTIM PROTECTION NEEDS

(A) The Attorney General, in consultation with the [Department of Health and Social Services] shall, no later than one year from the effective date of this statute, issue a report outlining how existing victim/witness laws and regulations respond to the needs of trafficking victims, as defined in XXX.01(8) of the Criminal Code, and suggesting areas of improvement and modification.

(B) The [Department of Health and Social Services], in consultation with the Attorney General, shall, no later than one year from the effective date of this statute, issue a report outlining how existing social service programs respond or fail to respond to the needs of trafficking victims, as defined in XXX.01(8) of the Criminal Code, and the interplay of such existing programs with federally-funded victim service programs, and suggesting areas of improvement and modification.

[Such inquiry shall include, but not be limited to, the ability of state programs and licensing bodies to recognize federal T non-immigrant status for the purposes of benefits, programs, and licenses.]

Explanatory Notes

Purpose

_____ This Model Law is offered to help criminal law policymakers at the state level address the phenomenon of modern-day slavery, often termed "trafficking in persons." In the course of researching this proposal, it became clear that many states already have laws on their books that directly address this crime problem. For instance, many trafficking-like crimes may be codified in seemingly-unrelated parts of a state code, such as the kidnaping or prostitution sections. Unfortunately, by being codified in disparate parts of the criminal code, it may unclear to prosecutors that the behaviors are trafficking in persons crimes and may be charged as such. Research into these existing state statutes revealed that they are often archaic, little-known, or underutilized, and do not necessarily reflect the current understanding of slavery and trafficking in persons.

The Thirteenth Amendment to the U.S. Constitution mandates that:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction....

Under the Trafficking Victims Protection Act of 2000, Pub. L. 106-386 ("TVPA"), a "severe form of trafficking in persons" is defined 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 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.

In the international arena, the United Nations Convention Against Transnational Organized Crime, supplemental Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children defines trafficking in persons as:

[T]he recruitment, transportation, transfer, harbouring or receipt of persons, by means of the 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 payments 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 labour or services, slavery or practices similar to slavery, servitude or the removal of organs[.]

Federal criminal provisions specific to trafficking in persons are codified at Title 18, United States Code, Chapter 77, Peonage, Slavery, and Trafficking in Persons. Some of these statutes are newly-enacted provisions of the TVPA; some of these statutes date from the Civil War era. All of these federal criminal civil rights statutes are rooted in the 13th Amendment's guarantee of freedom. The other federal criminal civil rights statutes, such as 42 U.S.C. §3631 (Interference with Housing Rights) and 18 U.S.C. §242 (Deprivation of Rights Under Color of Law), have corresponding state statutes. E.g., Indiana Code, § 22-9.5-10-1 (criminalizing interference with another's rights) and Texas Penal Code §39.03 (criminalizing official oppression). Such federal/state overlap allows for more prosecutions to be brought and allows local prosecutors to respond most appropriately to crime problems in their own jurisdictions. State prosecutors' increased prosecution of racial violence cases in the last 20 years can serve as a model for increased enforcement of the U.S. Constitution's guarantee of freedom from involuntary servitude.

Many state constitutions mirror the federal constitutional prohibition against involuntary servitude, see, e.g. Arkansas Const. Art. 2, § 27, and some states have involuntary servitude statutes on their books. See, e.g. Cal. Penal Code § 181 (Slavery, infringement of personal liberty; purchase of custody). Other states have similar statutes. North Carolina adopted a state involuntary servitude statute in the wake of several high-profile federal migrant labor prosecutions. See N.C.G.S.A. § 14-43.2. Arizona's criminal code, for example, includes kidnaping for involuntary servitude in its kidnaping statute, A.R.S. §13-1304, and a crime of taking a child for prostitution in its prostitution statutes. A.R.S. §13-3206. It is unclear whether such statutes are well-known by police and prosecutors, and to what extent they are being used to combat trafficking in persons.

The Model Penal Code recommends creation of an involuntary servitude crime as part of its overall kidnaping chapter. MPC 212.3(b), Felonious Restraint (third degree felony for holding a person in involuntary servitude). While the U.S. Department of Justice has not surveyed the field to determine how many states adopted this proposal, Nebraska is an example of one state that has this Model Penal Code provision on the books. See Neb.Rev.St. §28-31.

Certainly, experience at the federal level indicates that more comprehensive trafficking in persons statutes are needed to address the wide range of coercive tactics that traffickers use to obtain and maintain the labor and services of their victims. The proposed Model Law seeks to provide a tool for drafting modern anti-trafficking crimes, based on the Justice Department's experience in investigating and litigating these cases. Additionally, there is a strong need for uniformity in definitions and concepts across state lines to minimize confusion as trafficking victims in state prosecutions begin to seek the victim protections available through the federal Departments of Health and Human Services and of Homeland Security.

States and territories interested in adopting anti-trafficking legislation should survey their existing criminal codes to determine whether they include prohibitions on involuntary servitude, kidnaping, or false imprisonment, which have simply not been brought to bear against trafficking

in persons. Such a survey will assist in incorporating relevant portions of a modern anti-trafficking statute into existing law, and could result in increased use of such statutes. Bundling of appropriate statutes into a Slavery/Trafficking chapter, as in the federal criminal code, will make it more likely that such crimes are recognized and charged.

Definitions

The heart of the concept of "trafficking in persons" is the denial of the liberty of another. Accordingly, the transportation of a person is a secondary inquiry, the apparent meaning of "trafficking" aside. Thus, the definitions section and the criminal provisions focus on the coercive nature of the service, rather than the movement of the victim or the type of underlying service.

The definitions are in alphabetical order.

Section XXX.01(1) defines blackmail in a manner identical to the Model Penal Code's Criminal Coercion statute, Section 212.5(1)(c).

Section XXX.01(2), "commercial sexual activity," tracks the definition of commercial sexual activity in the TVPA.

Section XXX.01(3) defines "financial harm" to reflect the TVPA and the UN Protocol's inclusion of "debt bondage" as a form of trafficking in persons. In order to differentiate a debt that has the effect of coercion, as opposed to simply a bad bargain, the proposal adopts the usury laws of the relevant jurisdiction to illustrate debts that contravene public policy and may thus appropriately be considered to be coercive. On the federal level, an example of this type of law can be found at 18 U.S.C. § 892 (Making Extortionate Extension of Credit).

Section XXX.01(4) defines "forced labor or services" as those obtained or maintained through coercion, and lists the forms of coercion that would, if used to compel forced labor or services, justify a finding that the labor or service was involuntary.

Section XXX.01(5), which defines "labor," covers work activities which would, but for the coercion, be otherwise legitimate and legal. The legitimacy or legality of the work is to be determined by focusing on the job, rather than on the legal status or work authorization status of the worker.

Section XXX.01(6)'s "maintain" builds upon the Model Penal Code's definition of "obtain" and incorporates the principle in federal anti-slavery caselaw that a person's initial agreement to perform a particular activity or type of service is not a waiver of any coercion aimed at keeping that person from leaving the service.

Section XXX.01(7), "obtain" tracks the definition set forth at Model Penal Code's Theft

statute, Section 223.0(5)(b).

Section XXX.01(8), which defines "services," incorporates activities that are akin to an employment relationship but are in market sectors that are not legitimate forms of "labor." Notable in this area is commercial sexual activity, which is criminalized in almost every jurisdiction in the United States. Differentiation between "labor" and "services" makes it clear that this Model Law does not legitimize or legalize prostitution.

The notion that commercial sexual activity or concubinage can be "service" for the purposes of involuntary servitude statutes is reflected in case law. See, e.g. Pierce v. United States, 146 F.2d 84, 85-86 (5th Cir. 1944) (upholding conviction for forcing women to commit "immoral acts" at roadhouse to pay off debts); Bernal v. United States, 241 F. 339, 341 (5th Cir. 1917) (outlining as a crime when a woman was lured to house of prostitution under false pretenses and required to serve as prostitute or maid to pay debt); and the recent prosecutions, U.S. v. Cadena (SD FL 1998); U.S. v. Kwon (D. CNMI 1999); U.S. v. Pipkins (ND GA 2000); and U.S. v. Soto (SD TX 2003). See also Neal Kumar Katyal, Men Who Own Women: A Thirteenth Amendment Critique of Forced Prostitution, 103 YALE L.J. 791 (1993). Non-sexual forms of "service" might include rings that hold children for street begging or petty theft.

Section XXX.01(9) introduces the concept of "sexually-explicit performance." A number of recent federal cases have involved persons being held in servitude for purposes of sexually-explicit performances such as "exotic dancing." Unlike prostitution, which is typically illegal and involves commercial sexual activity, sexually-explicit performance may be legal, absent any coercion. Inclusion of sexually-explicit performance in this Model Law recognizes that such activity can have an impact on victims similar to sexual abuse, and reflects federal experience in which international traffickers are increasingly placing their victims into strip clubs rather than prostitution. The proposed criminal statutes provide expanded coverage for minors who are held in sexual performance as opposed to prostitution.

Section XXX.01(10) defines "trafficking victim," not for the purposes of the criminal statutes so much as to provide a working definition for state and local agencies who subsequently establish or modify programs to serve victims of these crimes.

Trafficking/Servitude Chapter

The Slavery/Trafficking crimes in this Article are arranged in a particular order that reflects the Department of Justice's experiences and understanding of the interplay between slavery/involuntary servitude and the transportation of persons for illicit purposes.

First, Involuntary Servitude, which focuses on the denial of a victim's liberty, applies to all persons held in compelled service, regardless of age, type of service, and whether they are transported or not. This approach de-links the crime from the nationality of the victim or the underlying morality of the service. All adults in coerced service are protected by this Section.

Second, a provision specific to minors in sexually-related activities sets forth a lesser standard of coercion – recognizing that sexual activities are conceptually different when minors are involved – by casting as Sexual Servitude those activities which involve minors but are not the result of coercion. This Section is the equivalent of Statutory Rape laws, which obviate the need to prove coercion when a victim is under the age of legal consent. This Section would allow for trafficking prosecutions in cases in which minors are kept in prostitution because of their circumstances but overt force is not used, such as is common in cases involving runaway U.S. citizen youth. As noted above, this provision extends the concept of proving sexual exploitation without a concomitant need to find coercion to include sexually-explicit performance and child pornography, as well as sexual acts.

Finally, Trafficking of Persons for Forced Labor or Services punishes the trade in coerced labor or services, but focuses on the recruiting, moving, and harboring for these practices. Conceptually, these actions are illegal if done for the purpose of the exploitation captured by the servitude offenses previously set forth.

Section XXX.02(1) (Involuntary Servitude) provides a baseline offense that is graded according to the severity of the coercion used against the victim. Rather than the federal approach, in which there are separate crimes based on the level of coercion (a function of the development of the federal anti-slavery laws over the course of almost 200 years), the proposed offense – the obtaining or maintaining another person in service through coercion – outlines different statutory maximums for cases involving force, threats, document confiscation, blackmail, etc. For drafting purposes, jurisdictions that prefer to codify each crime separately could easily do so by referring to Appendix A, Optional Servitude Offenses, which sets the proposed crimes out in a different manner. States with guidelines sentencing may want to adopt a simple involuntary servitude statute with a 20-year statutory maximum and then incorporate gradations by level of coercion within their guidelines instead of adopting a multi-part statute or multiple servitude statutes. Such a statute is set forth in Appendix B, Alternative Servitude Offense.

Statutory maximums are provided as an illustration of a graduated approach based on the type and level of coercion used against the victim. Many jurisdictions simply designate particular levels of a crime as a Class A, B, or C Felony or as a First, Second, or Third Degree Felony, rather than assigning a specific statutory maximum within the actual offense. Statutory maximums are provided in this Model Law as an example of relative culpability. The statutory maximums should be reviewed and incorporated in keeping with the sentencing structure of the criminal code of the particular state or territory.

Each of the crimes punishes attempts as well as completed offenses. Criminalizing attempts allows prosecutors to focus on a defendant's objectively observable intent to use coercion for compulsory service rather than on a victim's subjective response to the coercion. For instance, a victim flees after a beating intended to hold her, rather than staying and submitting to the "master"; in this instance, the enslavement is attempted but not completed.

Nonetheless, by criminalizing the attempt, a prosecutor may charge the defendant with his intended enslavement instead of having to wait for the victim actually to be enslaved (or to feel coerced). Such an approach has obvious benefits from the perspective of public safety: no victim should have to remain in a dangerous situation in order for the wrong done to him or her to be prosecutable. Note that the particular attempt language in the Model Law should be reviewed to ensure that it reflects an individual state's approach to attempts.

Penalties

The proposal's sentencing section sets forth two main concepts. First, the proposal reflects the notion that statutory maximum sentences should be increased in particularly violent instances of trafficking in persons, especially where the crime involves sexual abuse. Second, the actual sentences should reflect the time the victim was held and the various levels of injury suffered by a victim, as well as the number of victims harmed in a particular case. Additionally, gradation in sentences is appropriate among situations involving minors, especially those involving minors under the age of consent.

In the federal system these offense characteristics are incorporated into the U.S. Sentencing Guidelines, see U.S.S.G. §2H4.1, and have different effects depending on the other adjustments that are applied. Thus, the Model Law sets out offense characteristics which should be considered, but does not assign them values.

All of the offense characteristics offered for particular consideration should be reviewed and incorporated in keeping with the sentencing structure of the criminal code of a particular state or territory.

Restitution

The proposed measure of restitution tracks the federal restitution provision of the TVPA, codified at 18 U.S.C. §1594. Mandatory restitution allows prosecutors to recover money that the victims can use to assist them in their recovery. Unlike theft cases, there is typically little identifiable out-of-pocket loss in a trafficking case – the victims themselves are the objects that are stolen. Accordingly, this provision fixes the actual loss to the victim as either 1) the value of their services to the trafficker, or 2) the minimum wage for hours worked. The first measure of restitution, the value to the trafficker of the victim's labor or services, not only prevents the traffickers from profiting from their crime, but also avoids the unpalatable situation of assigning a wage valuation to instances of forced prostitution. The second measure of loss, the minimum wage calculation, is a handy tool in cases where victims did not receive any pay for their work, or sub-minimum wage, or in certain sex trafficking cases where the defendants hold their victims in concubinage rather than selling them as prostitutes (in which there is therefore no other identifiable measure of the value of the sexual services to the traffickers).

Trafficking Victim Protection

Federal experience has shown that prosecution without victim protection is unworkable. At the federal level, there is a variety of benefits and services available to trafficking victims. Accordingly, this Model Law provides a mechanism through which a state could determine how well current state programs serve the needs of trafficking victims. In addition, a state may want to consider optional Model Law language regarding the incorporation of federal T non-immigrant status as a basis through which certain state benefits, programs, and licenses could be accessed by alien trafficking victims.

APPENDIX A - Optional Servitude Offenses

[This formulation would also obviate the need for Section (4)(A), statutory maximum sentences.]

SEC. XXX.02. CRIMINAL PROVISIONS.

(1) INVOLUNTARY SERVITUDE OFFENSES.

(A) INVOLUNTARY SERVITUDE. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by causing or threatening to cause physical harm to any person shall be punished by imprisonment for not more than 20 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life [or death].

(B) UNLAWFUL RESTRAINT FOR FORCED LABOR. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by physically restraining or threatening to physically restrain another person, shall be punished by imprisonment for not more than 15 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

(C) LEGAL COERCION FOR FORCED LABOR. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by abusing or threatening to abuse the law or legal process shall be punished by imprisonment for not more than 10 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

(D) DOCUMENT SERVITUDE. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person, shall be punished by imprisonment for not more than 5 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

(E) DEBT BONDAGE. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by blackmail, or by using or threatening to cause financial harm to [using financial control over] any person, shall be punished by imprisonment for not more than 3 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

Appendix B - Alternative Servitude Offense

[Use sentencing guidelines to differentiate among levels of coercion and other aggravating factors.]

SEC. XXX.02. CRIMINAL PROVISIONS.

(1) INVOLUNTARY SERVITUDE. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services shall be punished by imprisonment for not more than 20 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

Fiscal Notes

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB148-LAW-CJL-1-24
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title "An Act relating to human trafficking; and RDU CRIMINAL
providing for an effective date." Component Criminal Justice Litigation
 Sponsor Representative Kertula
 Requester Senate Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 11.41 by adding a new section adding the crime of trafficking of persons in the first and second degree to offenses against a person.

The Department of Law does not expect many prosecutions to result from this statute change and thus does not anticipate any fiscal impact from its passage.

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

Phone 465-3673
 Date/Time 1/24/06 11:16 AM
 Date 1/24/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 148(JUD)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to trafficking of persons RDU Legal and Advocacy Services
 Component Office of Public Advocacy
 Sponsor Rep. Kertulla, Croft, Gara...
 Requester House Judiciary Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill creates two new felony offenses for human trafficking. This bill, if enacted, is not expected to have a significant fiscal impact on the operations of the Office of Public Advocacy.

Prepared by: Josh Fink, Director Phone 907-269-3501
 Division Office of Public Advocacy Date/Time 1/24/06 10:36 AM
 Approved by: Michael Tibbies, Deputy Commissioner Date 1/24/2006
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 148(JUD)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to trafficking of persons RDU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Rep. Kertulla, Croft, Gara...
 Requester House Judiciary Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill creates two new felony offenses for human trafficking. This bill, if enacted, is not expected to have a significant fiscal impact on the operations of the Agency.

Prepared by: Quinlan Steiner, Director Phone (907)334-4416
 Division: Public Defender Agency Date/Time 1/24/06 9:49 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 1/24/2006
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB148CS(JUD)-DPS-AST-1-24-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to human trafficking..." RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Representative Kerttula
 Requester Senate Judiciary Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation creates a new section in AS 11.41 making it a crime in the first degree to engage in the trafficking of persons. The intent is to stop forced labor, forced sexual conduct, and forced adult entertainment. A person commits the crime of trafficking in the second degree if the person obtains a benefit with reckless disregard.

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

Prepared by: Lieutenant James Helgoe Phone 907-269-4532
 Division Alaska State Troopers Date/Time 1/24/06 10:39 AM
 Approved by: Commissioner William Tandeske Date 1/24/2006
 Agency Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 148 (JUD)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An act relating to the trafficking of persons." RDU Institutional Facilities
 Component Institution Director's Office
 Sponsor Representative Kerttula
 Requester Senate Judiciary Component No. 524

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Due to the small number of potential cases, the Department of Corrections does not anticipate a significant fiscal impact due to the passage of this legislation.

Prepared by: Sharleen Griffin, Director Phone (907) 465-3339
 Division: Administrative Services Date/Time 1/25/06 9:16 AM
 Approved by: Portia Parker, Deputy Commissioner Date 1/25/2006
 Agency: Department of Corrections

Letters of Support

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

Main Office

130 Seward Street, Suite 209

Juneau, Alaska 99801

Phone: (907) 586-3650

Fax: (907) 463-4493

www.andvsa.org

Sitka Office

P.O. Box 6651

Sitka, Alaska 99805

Phone: (907) 747-7345

Fax: (907) 747-7347

Organizational Members:

Anchorage

AWAIC

AWRC

STAR

Barrow

AWIC

Bethel

TWC

Cordova

CFRC

Dillingham

SAFE

Fairbanks

IAC

Homer

SPWS

Juneau

WARE

Kenai/Soldotna

Lee Shore Center

Ketchikan

WISH

Kodiak

KWRCC

Kotzebue

MFCC

Nome

BSWG

Palmer

AFS

Seward

SCS

Sitka

SAFV

Unalaska

USAFV

Yakutat

March 15, 2005

The Honorable Representative Kerttula

State House

Alaska State Capitol

Juneau, AK 99801-1182

Dear Representative Kerttula:

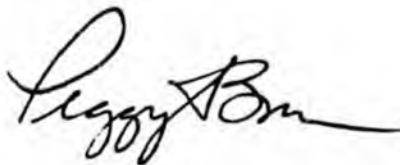
The Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) supports House Bill 148 – An act relating to trafficking of persons. The majority of trafficked persons are women and girls, in particular from developing countries and countries with economies in transition. In Alaska there is an increasing occurrence of trafficking for all forms of exploitation, especially for commercial sexual exploitation, which overwhelmingly affects women and girls.

Many of the women and children that the ANDVSA serves face multiple forms of discrimination, violence and conditions of disadvantage which contribute to their vulnerability to trafficking and violence.

All states have an obligation to exercise due diligence to prevent, investigate and punish perpetrators of trafficking in persons and to provide protection to the victims. Trafficking of persons violates and nullifies the enjoyment of human rights and fundamental freedoms.

Alaska has no particular state law to address trafficking of persons. Alaska must prosecute under federal provisions. This bill provides better protection for the rights of women and girls and effective punishment for perpetrators, through both criminal and civil measures.

Sincerely,



Peggy Brown, Executive Director
ANDVSA

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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John Jepsen, Member
Ketchikan
Pres. First City Chapter

Matt Betzen, Member
Unalaska
Pres. Aleutian Islands Chapter

Thecla LaLonde, Member
Wrangell
Pres. Wrangell Chapter

March 4, 2005

Representative Beth Kerttula
House of Representatives
State Capitol
Juneau AK 99801-1182

Dear Representative Kerttula:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing House Bill 148, relating to trafficking of persons.

The APOA State Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

This bill addresses the issues involved in trafficking of persons and also covers sentencing considerations and definitions.

Thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,


Angella Long
State President

**ORIGINAL
IN
MAIL**



State of Alaska
Department of
Public Safety

Frank H. Murkowski, Governor
William Tandeske, Commissioner

March 21, 2005

The Honorable Beth Kerttula
State Capitol, Room 430
Juneau, Alaska 99801

Dear Representative Kerttula:

This letter is written in support of House Bill 148 that you have sponsored to criminalize the trafficking of persons by making it an unclassified felony. This will allow for the prosecution of those traffickers in the State of Alaska, complementing existing federal regulations.

I believe this legislation is a step in the right direction to fighting this scourge on society and protecting victims who fall prey to these immoral human beings. I find it appalling that men, women and children are enslaved so others can profit from their misery.

The fourth annual "Trafficking in Persons Report" as published by the U.S. Department of State, reflects the growing concern of the president, members of congress, and the public over the serious human rights, health, and security implications of human trafficking around the world. I think former Secretary of State Colin Powell said it very well when he remarked about this modern-day slavery by asserting, "Together we can bring an end to the shadow (human trafficking) it has cast on too many lives."

Human trafficking cases are among the most labor and time intensive matters brought before the courts. Typically they involve multiple investigating agencies, as well as requiring the expertise of various professionals to deal with the trauma that so many of them have endured.

Hopefully the legislation you've introduced will act as a deterrent to someone or some organization and halt their illicit activities regarding the horrors of human trafficking.

Thank you for your initiative to criminalize this activity.

Sincerely,

William Tandeske
Commissioner

March 4, 2005

Dear Representative Kertulla,

You may add my name to the list of those who support the passage of HB148, which would make the trafficking of persons an unclassified felony in the State of Alaska.

During a meeting March 1st, where this bill was discussed, someone said something that sparked a memory regarding trafficking that I would like to share.

A divorced young mother I know was living in Sacramento, California with her two children. She was having a tough time financially. Her landlord, who lived next door, suggested she contact a friend of his who handled booking jobs for models.

Excited at the prospect of additional income she made an appointment for an interview. When she got to the address she saw it was an auto parts store but this was the agent's "other job" so she went in. She became nervous when he locked the door and suggested they go to the back for an interview.

His next suggestion was that she remove her dress and model in her slip, which she declined to do. She said all she could think of to say was she had to discuss this with her Mother but it worked. He backed off and she left.

A few weeks later, the "agent" and several other men were arrested. He was part of a prostitution ring that lured women in with promises of a job. They took pictures of the women modeling under unusual circumstances and threatened to show the pictures to their families, etc.

I told a friend of mine that we all needed to support the passage of the bill that would criminalize the trafficking of persons. His response was "That's a no brainer!" I certainly hope it is.

Sincerely,
Barbara May
116 - 5th St.
Douglas, AK 99824
907 364 3152

**BACKGROUND
INFORMATION**

FOR IMMEDIATE RELEASE

CRT

THURSDAY, FEBRUARY 22, 2001

(202) 514-2008

WWW.USDOJ.GOV

TDD (202) 514-1888

**FOUR INDICTED IN ALASKA FOR LURING RUSSIAN GIRLS AND WOMEN TO
U.S. AND ENSLAVING THEM IN A STRIP CLUB**

**Federal Action is First Under New Statute
to Stop Trafficking in Humans**

WASHINGTON, D.C. - Four people were charged today in Alaska with conspiring to enslave Russian women and girls in a strip club in Anchorage, the Justice Department announced. This is the first case prosecuted under the Victims of Trafficking and Violence Protection Act of 2000, enacted by Congress in October 2000 to stop the practice of trafficking in humans.

Victor Virchenko, Pavel Agafonov, Tony Kennard and Rachel Kennard were charged under a 23-count indictment with conspiring to lure six Russian women and girls to Alaska to enslave them. Virchenko is a Russian national, Agafonov is a naturalized U.S. citizen, and Tony and Rachel Kennard are U.S. citizens. The four defendants were previously indicted for falsely representing to immigration authorities that the Russian women would be in the United States for a cultural exchange.

Today's superceding indictment charges that the defendants recruited the females under false pretenses - to perform Russian folk dances in a cultural festival - only to force them into servitude once they arrived in the United States. The charges against the defendants include six counts of forced labor (18 U.S.C. §1589), for coercing the victims to perform in a strip club by employing a scheme that relied on threats, isolation, and confiscation of the victims' passports, visas, and plane tickets.

The Russian victims, who were brought to the United States in December 2000, were freed from the defendants by the INS in January 2001. The women and girls have temporary legal immigration status and are being housed in a safe location.

"Slavery and trafficking violate the American promise of freedom," said Robert C. Bundy, the United States Attorney for the District of Alaska.

"We will vigorously enforce our anti-slavery laws against those who try to exploit others."

The indictment also charges the defendants with kidnapping, transportation of minors for illegal sexual activity, and visa fraud. Additionally, Mr. Virchenko is charged with witness intimidation. If convicted of all counts, the defendants could face sentences of life in prison.

The indictment is the result of a coordinated effort of the National Worker Exploitation Task Force, an interagency effort that brings together different agencies to combat the problem of trafficking in persons and modern-day slavery in the United States. The case, which was investigated jointly by the INS, FBI, and the Anchorage Police Department, is being prosecuted by the Criminal Section of the Department of Justice's Civil Rights Division and the U.S. Attorney's Office for the District of Alaska.

The Victims of Trafficking and Violence Protection Act of 2000 increased criminal penalties and broadened prosecutors' authority in trafficking cases to reach modern forms of slavery. The Act also gives victims better access to services such as shelters, counseling and medical care, and it provides a means for alien victims to stay in the United States and assist in the investigation and prosecution of traffickers.

Individuals can report other cases of trafficking or slavery to the National Worker Exploitation Task Force complaint line, at 1-888-428-7581. More information about the Task Force can be found at:
<http://www.usdoj.gov/crt/crim/tpwetf.htm>

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01-76

FOR IMMEDIATE RELEASE

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THURSDAY, JUNE 14, 2001

(202) 616-2777

WWW.USDOJ.GOV

TDD (202) 514-1888

**THREE MEN PLEAD GUILTY TO SEX TRAFFICKING
OF RUSSIAN MINORS**

WASHINGTON D.C. Three people pled guilty yesterday in Alaska to bringing two sixteen-year-old Russian girls to dance nude in a strip club in Anchorage, Alaska. The defendants also pled guilty to fraudulently obtaining visas for those girls and four other Russian women who were brought to Alaska to dance in strip clubs.

Victor Nikolayevich Virchenko, Pavel Vasilievich Agafonov and Tony Kennard all pled guilty in federal district court to six counts of immigration fraud. Kennard pled guilty to two counts of transporting minors for illegal sexual activity; Agafonov and Virchenko pled guilty to one count of transporting minors for illegal sexual activity. Virchenko is a Russian national, Agafonov is a naturalized U.S. citizen, and Tony Kennard is a U.S. citizen.

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. The sentencing for all three men is scheduled for August 24, 2001.

The Russian victims, who were brought to the United States in December 2000, were freed from the defendants by the U.S. Immigration and Naturalization Service (INS) in January, 2001. The women and girls have temporary legal immigration status and are being housed in a safe location.

"Sex trafficking of minors is a heinous crime," said Attorney General John Ashcroft. "Yesterday's guilty pleas should put those who engage in the exploitation of women and children on notice that the Justice Department will be relentless in bringing perpetrators of this kind of abuse to justice."

The prosecution is the result of a coordinated effort of the National Worker Exploitation Task Force, an interagency effort that brings

together different agencies to combat the problem of trafficking in persons and modern-day slavery in the United States. The case, which was investigated jointly by INS, the Federal Bureau of Investigation, and the Anchorage Police Department, is being prosecuted by the Criminal Section of the Department of Justice's Civil Rights Division and the U.S. Attorney's Office for the District of Alaska.

Individuals can report other cases of trafficking or slavery to the National Worker Exploitation Task Force complaint line, at 1-888-428-7581. More information about the Task Force can be found at:
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01-261

Rescued From Sex Slavery

Feb. 23, 2005

At night, the rooms above a building in downtown Bucharest resemble a scene straight from the 18th century slave trades, and it's taking place in front of **48 Hours**' hidden cameras.

There, **Correspondent Peter Van Sant** is negotiating to buy a human being – not for an hour, but forever. In this **48 Hours** report, Van Sant infiltrates the billion-dollar business of human trafficking, a business that is worldwide.

Hundreds of thousands of young, desperate girls are trafficked each year as sex slaves. Some are lured overseas with the promise of a good job, only to be enslaved once they arrive. Others are simply abducted.

To investigate, **48 Hours** traveled to Bucharest, Romania, with hidden cameras to find out if it was really possible to purchase a sex slave.

Posing as traffickers from America, **48 Hours** crews went undercover, hoping to rescue a victim of this insidious industry. To infiltrate this world, crews hired streetwise journalists Paul Radu and Daniel Neamu as guides.

Like many poor Eastern European countries, Romania has become a popular place for international traffickers looking to recruit, or even purchase, girls.

After dark, the **48 Hours** team ventures into the older sectors of Bucharest, to see what money can buy. Within minutes, the crew finds what looks like the kind of pimping and prostitution you can see in any large city. But soon it learns that some of these girls are for sale as slaves.

"You can buy 10 girls in one night, if you want to. You can say I want a 13-, a 16-, a 17-, and a 21-years-old, and you can buy them all like that," says Iana Matei, who runs a shelter for trafficking victims outside Bucharest.

Matei agreed to take in any girl that **48 Hours** could rescue. "Young girls and women, bought and sold, first to work in prostitution. That's slavery. We choose to believe that they are prostitutes and we don't look into it," says Matei.

She says that many of the girls on the street look like prostitutes but are actually slaves, ready for purchase and export to Western Europe or the United States.

"It's on the street. It's impossible not to see," says Matei. "It's not a secret industry. It's right in your face."

A woman named Francesca claims to have girls all over Bucharest. Over a meal, our undercover team explains to Francesca that it wants to buy her girls, and bring them back to the United States. The team asks if the girls have the proper documents to cross the border.

"No problem," says Francesca, who is hungry to close the deal.

But **48 Hours** decides to do business with another trafficker, Nadia, who says she has a young, blonde girl for sale.

Nadia brings out the girl, "Nicoleta", to meet with Van Sant. She and her business partner and husband, Costel, put Nicoleta on display in the filthy apartment where she services clients.

To rescue Nicoleta, it is crucial that Van Sant and the **48 Hours** team convincingly play the role of cold-hearted traffickers.

Nicoleta undresses. "They usually show the girls to see she doesn't have any marks, any skin disease so they can show she's good to be used," says Matei. "It's, like, when you say, sell a cattle in the market."

"To you, it's a human being. To them, it's not," adds Matei. "To them, it's income. It's a way of making money."

Van Sant offers to pay \$1,000 for Nicoleta, but suddenly there is a problem: Nicoleta doesn't have any ID on her. However, Costel assures **48 Hours** that the issue will be resolved the next day.

The plan is to return to the traffickers' apartment the next day, buy Nicoleta for \$1,000, and then bring her to Matei's shelter, and let Nicoleta reclaim her life.

But within minutes, negotiations hit a snag. Now, Nadia wants \$2,000 for the sale. Why has the price doubled overnight? "Obviously, they understood that you are going to take her overseas," says Matei. "So she goes overseas, the price goes up \$1,000."

Nadia says much of the money will support Nicoleta's family. In the end, Van Sant offers \$1,800, and the deal is settled. But even though the traffickers haven't produced Nicoleta's ID, **48 Hours** wants to get her out of there. Nicoleta leaves with only the clothes on her back.

Once in the car, **48 Hours** hands over the rest of the cash. In less time than it takes to buy groceries, **48 Hours** had bought a human being.

"I want you to know that you are absolutely safe with us," Van Sant tells Nicoleta. "You've got nothing to fear."

It's now a very difficult decision for Van Sant, who is trying to decide whether he should tell Nicoleta that the **48 Hours** team are undercover reporters. He's concerned that Nicoleta might jump out of the car, think that he is lying to her, or believe that he is part of the authorities.

But Nicoleta is convinced that Van Sant is her new owner. During the drive, she tells **48 Hours** that this is the first time she's been outside in more than a year. She says her owners brutally beat her, and that she was fed like a dog.

How did she become a slave? Nicoleta says her mother abandoned her at an orphanage: "Then, they threw me out. With no family, I didn't know where to go."

She says she eventually came to Bucharest, where she spent years living in the sewers and shantytowns with other young runaways. The traffickers found her by the side of a road. They promised her food and shelter. But they ended up making her bad world worse.

After nearly two hours of driving, Van Sant tells Nicoleta the truth: "We are journalists from the United States. We have bought you because we want to set you free."

Exhausted and a bit stunned, Nicoleta hugs our translator, and says: "I thank you from the bottom of my heart, that you saved me from that hell."

48 Hours arrives at Matei's shelter after midnight. Nicoleta gets a change of clothes and a hot meal.

How does Nicoleta look? "She is tired, obviously. Not well taken care of," says Matei. "She doesn't have self worth, self respect, self esteem."

Matei says it will be months before Nicoleta trusts her enough to tell her the truth – but she isn't optimistic. "My first opinion is, it will be very difficult to work with her."

48 Hours says goodbye to Nicoleta, promising to check back in a few months.

While Nicoleta is just beginning to deal with what she's endured in Romania, another young woman – more than 6,000 miles away in southern California – has spent years recovering from her dark journey.

48 Hours talked to "Olga," 25, who's also a survivor of a million-dollar sex slave trafficking ring in Russia. Her ordeal began in 1999, in her hometown of Moscow, a growing supplier of sex slaves to the United States.

She was the perfect target for traffickers. Both her father and boyfriend had been murdered by the Russian mob. She was scared and desperate to get out.

A friend introduced her to a man named Alexander Rashkovsky, who was looking for girls to work in America.

Rashkovsky offered Olga a chance at a new life: a job as an assistant and transportation to the United States.

"The only thing that I knew: that America is really secure – a person has rights," says Olga. "And everywhere would be pretty much safer than being in Moscow."

Jolene Smith, executive director of the Free the Slaves Foundation, says Rashkovsky's come-on is a typical tactic for a slave trader. "And then the harsh reality sets in. There are threats. And that's where the person realizes, 'I'm trapped. And there is nothing I can do.'"

After Rashkovsky spent the money on the plane tickets, he made it clear there was no backing out. "If anybody try to run away, he's not going to deal with you," says Olga. "I'm just going to cut your head off."

Olga got on the plane with four other Russian girls. In that instant, they became the personal property of an international slave trader. Olga's plane, however, was headed to Mexico. Rashkovsky was planning to smuggle the women across the notoriously unsupervised border between Mexico and the United States. He brought the women to a hotel in Tijuana.

Olga, a consultant to **48 Hours** on this report, returned to Mexico to retrace her steps. "It's just old memories," she says. "The older I get, the more scarier it is to think about, what could happen to me."

Girls like Olga are sometimes put to work in Mexican strip clubs before heading north. But Mexico is more than just a transit country and training ground for Eastern Europeans. In its own right, Mexico is the No. 1 country providing slaves to the United States, accounting for the majority of federal trafficking cases.

Many girls come from the central Mexico region of Tlaxcala, an infamous haven for modern-day slave traders. Two years ago, "Rosaria" was kidnapped. She was 20.

"They had me working overnights. It was worse than prison," says Rosaria. "No freedom. Doing things I had never done before. It was like hell on earth."

Rosaria recently escaped from a Tijuana brothel before she could be taken from the border. "They told me they will kill me. They even threatened me with hurting my family, if I tried to escape," she says. "They told me that I was going to work in the United States. They had girls working over there already."

Many of those girls never return. **48 Hours** met "Elsa," one of the mothers of the missing. The last time she saw her daughter was on her 20th birthday, in June 2001.

Elsa claims that the people behind her daughter's disappearance are allegedly members of an well-known family of slave traders called the Carretos. She alleges that members of the Carretos abducted her daughter on her way to work, and eventually brought her daughter to the United States.

But first, Elsa says they brought her daughter to Calle Santo Tomas, one of the many brutal training grounds in Mexico where traffickers "break in" new girls like Rosaria.

Rosaria said she was beaten: "They just looked at me and told me to go to work. I was so scared of being killed, I did everything they wanted me to."

"One of the key tools that modern day slaveholders today use is to break the person's will as soon as possible," says Smith. "The sooner the will is broken, in many cases, it's easier to transport that person. It's easier to force that person to work."

On Calle Santo Tomas, you can find dozens of girls, day and night, parading in a slow circle. A crowd of clients stands around them, while a vendor sells snacks. The pimps overseeing matters are suspicious of outsiders, but **48 Hours** got in with hidden cameras.

The girls bring their clients into a warehouse-like structure, and the sex takes place inside filthy curtained cubicles. Elsa says her daughter was helpless: "They threaten the girls. They say, 'If you leave, I will kill your family. I will kill you and cut you to pieces.'"

But for Olga and the other Russian girls, a different version of the "training process" took place on their first night in Tijuana.

Rashkovsky brought some men to the hotel and began putting his new slaves to work. Olga convinces them she is too sick to perform, but she now sees a horrible future ahead of her. "He [Rashkovsky] wouldn't care at all," she says. "We could die, and he would probably step over us and keep walking."

And now, just as Elsa is determined to free her daughter, Olga is determined to escape. "This is my chance," says Olga.

The border crossing between Tijuana and California is the busiest land border in the world. Rashkovsky was behind the wheel, and Olga and another Russian woman were passengers on the road to becoming Rashkovsky's newest sex slaves in America.

But first, they had to pass the last obstacle: getting through the border checkpoint.

Olga, who at the time didn't speak any English, was given a two-word crash course in English by Rashkovsky: "Yes. U.S." It was something she would have to say at the border.

"I knew that it wasn't easy to cross the border, so as soon as I get there, I should try to escape," says Olga.

When the car pulled up to the border guard, Olga made her move. "I just hope they were going to stop our car," she says.

She began speaking in Russian, and says Rashkovsky was furious. But her gamble worked. Everyone was ordered out of the car by the border patrol, and detained. Rashkovsky was questioned on video, and tried to convince his interrogators that he had just met the girls in Tijuana.

But it didn't work. "An older gentleman in the company of two young females who had heavy Russian accents, you know, just didn't pass the litmus test," says Special Agent Mike Unzueta, who worked the Rashkovsky case for the Department of Immigration and Customs Enforcement, known as "ICE."

Rashkovsky was arrested for attempting to smuggle human beings across the border.

"He was basically a monster," says Olga. "Really a monster. That's him."

Investigators later learned the ugly truth: Rashkovsky had raked in more than a million dollars, trafficking young Russians into the Los Angeles area.

"The money that they were making was going right into Rashkovsky's pocket," says Unzueta. "These women basically were going to be treated as slaves."

Olga was taken to a safe house in San Diego and placed in protective custody. She was one of the lucky few to be saved before she was forced into slavery.

Sadly, it was totally different for Elsa's daughter. Members of the Carreto crime family of Tlaxcala, Mexico, allegedly brought Elsa's daughter and other girls all the way to Queens, N.Y.

"In New York, threats, force, violence, rape used to force these Mexican women into prostitution, six, seven days a week," says ICE Director Mike Garcia.

For years, ICE agents have been investigating the pipeline that brings Mexican girls to the quiet Queens neighborhood where members of the Carreto family were allegedly running their operation.

48 Hours sent an undercover researcher into the Latino neighborhood in Queens, where Elsa's daughter was brought. He soon finds a pimp who steers him around the block and down into a basement.

Under the careful eyes of their keepers, the girls are working in two small rooms, separated by a bed sheet.

"When we think of how trafficking victims are surviving within our own countries today, I can only imagine that it's something like this," says Smith, who was shown the undercover tape. "What's interesting to note about this particular case is that it seems to be happening in a middle-class residential area. This further proves the point that we all need to be vigilant. This could be happening next door."

At another popular location, a girl tells the undercover researcher that she is 22 and from Vera Cruz, Mexico. He asks the men running the place if they have anyone younger. They promise him a 16-year-old girl.

48 Hours can't say for sure if these girls are being held against their will, but when Elsa's daughter got her first chance to call Mexico, she contacted her mother and pleaded for help.

"She was afraid because she had been threatened," says Elsa. "And I cried very much when I heard her voice."

Despite the danger of speaking out against members of the Carreto family, Elsa was not intimidated. She went public with her story in *The New York Times* magazine, and filed a complaint with the Mexican federal police.

"I saw the way to find justice. I made the move," she says. "But I still worry a lot about my daughter."

Elsa's determination paid off. Members of the Carreto family were arrested last year. Authorities say they eventually will be going to trial in New York.

Elsa's daughter was rescued and now assisting in the investigation. She hopes to be reunited with her mother.

Slave trader Alexander Rashkovsky ended up in prison in California after Olga testified against him at trial. He died of pneumonia behind bars in 2003.

Olga was allowed to stay in the United States under a special visa the federal government offers to victims of trafficking. Now, she's trying to build a real estate career.

As for Nicoleta, the girl that **48 Hours** bought in Bucharest for \$1,800 and then freed? **48 Hours** returned to Romania three months later to find out how she's doing. She's still in recovery at Iana Matei's shelter for trafficked girls.

"She's doing better than I expected her to do, honestly," says Matei. "She's doing quite well in the shelter."

For the first time in her life, Nicoleta has people around her who care. "They're a really good family," she says.

And they are her only family. It has taken months for Matei to learn the true details of Nicoleta's life, including her true age, 26. She believes that Nicoleta, homeless and mentally challenged, was picked up by traffickers and spent years as a sex slave.

Just the mention of her past life reduces Nicoleta to tears.

48 Hours went back to the apartment where Nicoleta was held captive, to confront her former owners, Nadia and Costel, but they were nowhere to be found. The traffickers seemingly melted into the back alleys of Bucharest, as Nicoleta picks up the pieces of her shattered life.

"I was quite impressed, honestly," says Matei. "I am pleased to say there is hope for Nicoleta."

Today, it's the simple pleasures of freedom that make Nicoleta happy – like having her own room, working in the shelter's tailoring shop, and being able to walk outside. Now, perhaps for the first time, she can look forward to the future.

"I want to learn to read and get a job," says Nicoleta. "And maybe one day have a family."

Elsa's daughter, who was rescued in New York, is expected to be a key witness against members of the Carreto family. Their trial for sex trafficking is expected to begin this spring.

There are an estimated 4,600 women currently held in the United States as sex slaves.

Fact Sheet
on
State Anti-Trafficking Laws
from
National Institute on State Policy on Trafficking of Women and Girls
A Program of the
Center for Women Policy Studies
July 2005

State Legislative Initiatives

The Center for Women Policy Studies works with state legislators to develop legislative initiatives:

- to make trafficking a **state felony offense** with appropriately harsh punishments for traffickers and protections for the women and girls who have been trafficked into our communities; we urge states to pass criminalization statutes and also to provide for **victim protection and assistance programs**;
- to create **statewide interagency task forces on human trafficking**, with a mandate to determine the nature and extent of trafficking in each state and make recommendations for legislative, policy, and programmatic initiatives;
- to regulate **"bride trafficking"** by commercial **"international marriage brokers"** (also called **"mail order bride"** or **"international matchmaking"** organizations) that operate in the state; and,
- to regulate **sex tourism** by travel services providers that operate in the state.

The following summary of all state laws addressing trafficking in persons is current as of July 2005 and will be revised following the 2006 state legislative sessions. States are listed below in alphabetical order rather than in order of passage of the legislation.

We honor the sponsors of these bills for their leadership and commitment and have listed them at the end of the **Fact Sheet**.

Summary of State Anti-Trafficking Laws

Criminalization Statutes

Legislatures in **Arizona, Arkansas, Florida, Illinois, Kansas, Louisiana, Minnesota, Missouri, New Jersey, Texas, and Washington** have enacted laws to make trafficking a state felony offense. Similar legislation is pending in **Alaska, California, Delaware, Indiana, Maine, Montana, New Mexico, New York, Oregon, Pennsylvania, South Carolina, and Wisconsin**.

Arizona: SB 1372 establishes the first degree felony of sex trafficking of a minor under the age of 15 and the second degree felony of attempted sex trafficking of a minor. The bill further establishes two class 2 felonies: sex trafficking; and, trafficking of persons for forced labor or services, and one class 4 felony: unlawfully obtaining labor or services. Additionally, the court is required to order victim restitution. **Effective Date:**

August 12, 2005.

Arkansas: HB 2979 establishes the class A felony of trafficking in persons for the purposes of involuntary servitude, peonage, debt bondage, slavery, marriage, adoption or sexual conduct. The bill also creates the class A felony of benefiting financially from trafficking. **Effective Date:** August 11, 2005.

Florida: SB 1962 establishes the first degree felony of sex trafficking for parents, legal guardians, or other persons having custody of a minor who sell, transfer custody, or offer to sell or transfer custody of the minor for the purpose of sex trafficking or prostitution. The bill further establishes two second degree felonies: obtaining forced labor; and, sex trafficking and human trafficking for anyone who knowingly participates in trafficking for purposes of forced labor or prostitution. Any sex trafficking activity that results in death or is committed against a person who is under the age of 14 is considered a first degree felony. **Effective Date:** October 1, 2004.

Illinois: HB 1469 establishes the felony offenses of involuntary servitude, involuntary servitude of a minor, and trafficking of persons for forced labor or services. Such factors as causing or threatening physical harm; destroying, concealing, removing, confiscating or possessing any actual or purported immigration document; and, using intimidation can be used to determine the severity of the charge. The trafficker's behavior – including commission of sexual assault, extreme violence, or bodily injury – and the number of victims can be considered in sentencing. In addition to sentencing, the court must order restitution to the victim and the forfeiture of any assets obtained as a result of the involuntary servitude or trafficking offenses. **Effective Date:** January 1, 2006.

Kansas: SB 72 establishes the level 2 felony offense of trafficking and the level 1 felony offense of aggravated trafficking. Trafficking is defined as aggravated if it includes kidnapping or attempted kidnapping; the sexual gratification of the defendant or another person; death of the victim; or, trafficking of a person under the age of 18. **Effective Date:** July 1, 2005.

Louisiana: HB 56 establishes the crime of human trafficking, which is punishable by a maximum fine of \$10,000 and a maximum sentence of 10 years in prison. If the trafficking is committed for the purposes of commercial sexual activity, the maximum fine is \$15,000 and the maximum prison sentence is 20 years. Trafficking of a minor carries a maximum fine of \$25,000 and a prison sentence of five to 25 years. **Effective Date:** August 15, 2005.

Minnesota: HB 1 establishes the felonies of labor trafficking; sex trafficking, and unlawful conduct with respect to documents in furtherance of labor or sex trafficking. Labor trafficking is punishable by up to 15 years in prison or a \$30,000 fine, or both. Depending on the age of the victim, sex trafficking is punishable by a maximum prison sentence of either 15 or 20 years. The document offense carries a maximum punishment of five years in prison, a \$10,000 fine, or both. **Effective Date:** August 1, 2005.

Missouri: HB 1487 makes changes to the laws regarding crimes against persons, establishing: a class A felony of sexual trafficking of a child; class B felonies of abusing an individual through forced labor and of trafficking for either forced labor or sexual exploitation; and, a class D felony of contributing to human trafficking through the misuse of documentation. As part of the sentencing for a human trafficking offense, the court must order the perpetrator to pay restitution to the victim. Victims of any one of these five crimes also shall be afforded the rights and protections provided in the federal *Trafficking Victims Protection Act of 2000*. **Effective Date:** August 28, 2004.

New Jersey: AB 2730 establishes the first degree felony offense of human trafficking for the purposes of engaging in sexual activity or providing labor or services. The maximum punishment for a trafficking offense is 20 years without parole, or up to life in prison with the possibility of parole after 20 years. The court also must sentence the perpetrator to make restitution to the victim and may order forfeiture of any assets related to the trafficking violation. The Office of Victim-Witness Advocacy or the county prosecutor's office must ensure that the trafficked individual obtains assistance in receiving any available benefits or services to trafficking victims. **Effective Date:** April 26, 2005.

Texas: HB 2096 establishes the first degree felony of trafficking or transporting of persons who are younger than 14 at the time of the offense or if the commission of the offense results in the death of the person who is trafficked. Otherwise, the offense is a second degree felony. According to the Texas Criminal Justice Policy Council, the punishment range for a first degree felony offense is five to 99 years imprisonment; the range for a second degree felony offense is two to 20 years imprisonment. **Effective Date:** September 1, 2003.

Washington: HB 1175 establishes the class A felony offenses of first and second degree sex trafficking and labor trafficking in the state of Washington. Under standard sentencing guidelines, a first degree offense carries a maximum punishment of 14 years in prison; in the second degree, the maximum sentence is nine years. Such factors as the age of the victim and whether the victim was kidnapped or killed are considered in determining the severity of the charge. Victims of trafficking also may sue for damages and for the cost of bringing the suit; a civil fine of up to \$250,000 may also be levied by the court. **Effective Date:** July 27, 2003.

Statewide Interagency Task Forces on Human Trafficking

State task forces have been established by statute in **Colorado, Connecticut, and Washington**. **Idaho** passed a resolution to authorize the creation of a legislative committee to study human trafficking in that state. **Minnesota's** Commissioner of Public Safety is required by statute to conduct an annual trafficking study and submit a report of the findings to the legislature.

California took a different approach. In 2004, at the request of Assemblywoman Sally Lieber, Assembly Speaker Fabian Nunez created the **Select Committee on Human**

Trafficking in California, which held informational hearings in the state that were co-sponsored by the California Commission on the Status of Women, the California Women's Law Center, and the California Women's Legislative Caucus.

In addition, advocacy efforts are underway in several states – led by state women's organizations, violence against women programs and providers, and anti-trafficking groups – to study the nature and extent of trafficking in the state and make policy recommendations.

Colorado: HB 1143 creates an interagency task force on trafficking in persons to: collect and organize data on the nature and extent of trafficking in the state; investigate collaborative models for protecting victims; measure and evaluate the progress of the state in preventing trafficking, protecting victims, and prosecuting traffickers; identify available federal, state, and local programs that provide services to victims; evaluate approaches to increase public awareness of trafficking; analyze existing criminal statutes for their adequacy in addressing trafficking and make recommendations; and, consult with governmental and non-governmental organizations in developing recommendations. The task force is required to report its findings and recommendations to the Judiciary Committees of the House and Senate by January 15, 2007. **Effective Date: April 5, 2005.**

Connecticut: HB 5358 establishes an interagency task force on trafficking in persons to: collect data on the nature of trafficking in the state and evaluate the state's progress on trafficking; identify available federal, state, and local programs that provide services to trafficking victims; evaluate approaches to increase public awareness of trafficking; analyze and make recommendations regarding existing state criminal statutes' ability to address trafficking; and, make recommendations on preventing trafficking, assisting victims, and prosecuting traffickers. The task force is required to report its findings and recommendations to the General Assembly by January 1, 2006. **Effective Date: October 1, 2004.**

Idaho: HCR 18 authorizes the Legislative Council to appoint a legislative committee to complete a study on human trafficking. The co-chairs of the committee will appoint non-legislative members of the committee. The committee shall: collect data and present findings on the nature and extent of human trafficking in Idaho; identify available federal, state and local programs that provide services to victims; analyze and make recommendations regarding the ability of existing criminal statutes to address trafficking; and, make recommendations regarding the prevention of trafficking, the prosecution of offenses, and victim assistance. The committee is required to report its findings and recommendations to the Legislature, the Governor, and the Idaho Supreme Court by January 1, 2006. **Adopted: April 1, 2005.**

Minnesota: HB 1 appropriates money for an annual statewide human trafficking assessment, which will be led by the Commissioner of the Department of Public Safety with the assistance of government agencies and nongovernmental organizations. The study will include: the numbers of arrests, prosecutions, and successful convictions of traffickers; statistics on the number of trafficking victims, including demographics,

method of recruitment, and method of discovery; trafficking routes and patterns; method of transportation; and, social factors that contribute to and foster trafficking, especially trafficking of women and children. The Commissioner must submit the first report to the Legislature by September 1, 2006. **Effective Date:** July 1, 2005.

Washington: HB 2381 created the *Washington State Task Force Against the Trafficking of Persons* in 2002 to: measure and evaluate the progress of the state in trafficking prevention activities; identify available federal, state, and local programs that provide services to victims of trafficking; and, make recommendations on methods to provide a coordinated system of support and assistance to victims of trafficking. **Effective Date:** June 13, 2002. The *Task Force* expired on March 1, 2003 but was extended until June 30, 2004 (HB 1090). **Effective Date:** May 14, 2003.

HR 4707 recognizes and honors the Office of Crime Victims Advocacy and the *Washington State Task Force Against the Trafficking of Persons* for its accomplishments in leading the country in taking action against human trafficking. **Adopted:** March 4, 2004.

**International Marriage Brokers/International Matchmaking Organizations (IMOs)
Regulation of "Bride Trafficking" by Commercial Enterprises**

Legislatures in Hawaii, Missouri, Texas, and Washington have passed laws to regulate "international matchmaking organizations" (IMOs) that operate in the state.

Hawaii: HB 135 allows persons living abroad who use for-profit matchmaking services to gain access to criminal conviction and marital history information from prospective spouses residing in the United States ("clients"). Each IMO must notify all foreign women ("recruits") in their native language that criminal history records and marital history information about any Hawaii resident is available upon request. The IMO also must disseminate this information upon request in the recruit's native language and refrain from providing any further services that facilitate interaction between the recruit and the client until the information has been submitted to the IMO. The punishment for a violation of the law is a fine of up to \$500 and up to 30 days imprisonment. **Effective Date:** January 1, 2004.

Missouri: HB 353 requires IMOs to notify each potential recruit that the criminal history information and marital history information of clients are available, upon request, in the recruit's own language. Basic rights information -- including information about human rights, immigration, emergency assistance and resources, and the legal rights of and resources for victims of domestic violence -- also must be made available to recruits. The IMO must distribute this information no later than 30 days after receiving it, and IMOs that fail to provide the information or willfully provide incomplete or false information are guilty of a class D felony. **Effective Date:** August 28, 2005.

Texas: HB 177 requires IMOs to provide each foreign recruit with the criminal history record information and marital history information of the IMO's clients and with basic rights information in the recruit's native language. The IMO must disseminate this information no later than the 30th day after the date it receives the information from the

client and must pay the costs incurred to translate this information into the recruit's native language. The IMO may not provide any further services to the client or recruit until it has obtained the requested information from the client and provided it to the recruit. An IMO that violates the law is subject to a civil penalty not to exceed \$20,000 for each violation. **Effective Date:** September 1, 2003.

Washington: SB 6412 requires IMOs to provide information to foreign women, upon request, on state background checks and personal histories of Washington residents seeking to meet foreign women (potential recruits). The IMO must notify all potential recruits that background check and personal history information is available upon request. Once the resident is notified of the recruit's request for background information, the IMO must refrain from providing any further services that facilitate future interaction between the recruit and the resident until the IMO has obtained the requested information from the resident. **Effective Date:** September 1, 2002. The language of the bill was slightly amended in 2003 (HB 1826). **Effective Date:** July 27, 2003.

Sex Tourism

Hawaii: HB 2020 makes it a class C felony to knowingly sell or offer to sell travel services that include or facilitate travel for the purpose of engaging in prostitution. It authorizes the suspension or revocation of travel agency registration for engaging in these acts. The bill emphasizes that prostitution and sex tourism contribute to the trafficking of persons, and seeks to discourage sex tourism as a way to reduce the demand for sex trafficking. **Effective Date:** May 19, 2004.

Sponsors

Criminalization Statutes

Arizona

SB 1372 Sponsors: Senators Jarrett, Aguirre, Bee, Blendu, Gould, L. Gray, Huppenthal, Johnson, R. Miranda, Waring, Arzberger, Brotherton, R. Burns, Chevront, J. Garcia, Hellon, R. Rios, Soltero, Verschoor; Representatives Anderson, Nelson, Paton, Pearce, Pierce, Burges, C. Gray, Lopes, McClure, P. F. s, Robson.

Related bill HB 2539 Sponsors: Representatives Paton, Alvarez, J. Burns, Farnsworth, Lopez, McClure, Pearce, Rosati, Biggs, Gallardo, Hershberger, Meza, Pierce, Sinema, Tully; Senator Bee.

Related bill SB 1357 Sponsors: Senators Bee, Jarrett, Waring, Harper, Tibshraeny, Verschoor; Representative Paton.

Related bill HB 2657 Sponsors: Representatives Gallardo, L. Lopez, Lujan, Sinema, A. Aguirre, Alvarez, Bedford, Chase, Downing, M. Garcia, Davis, Meza, Reagan.

Related bill HB 2708 Sponsors: Representatives Sinema, A. Aguirre, Chase, Alvarez, Bradley, Gallardo, M. Garcia, Kirkpatrick, Lujan, Meza, Tom.

Arkansas

HB 2979 Sponsor: Representative Elliott.

Florida

SB 1962 Sponsors: Senators Wasserman Schultz, Smith, Aronberg, Haridopolos.

Related bill

HB 865 Sponsors: Representatives Gannon, Brandenburg, Bullard, Fiorentino, A. Gibson, Harrell, Hasner, Holloway, Joyner, Kravitz, Stargel, Zapata.

Related bill HB 1977 Sponsors: Representatives Barreiro, Bucher, Fiorentino, Gannon, Joyner, Kallinger, Kottkamp, Rich, Roberson, Sobel.

Illinois

HB 1469 Sponsors: Representatives Chavez, Bailey, Soto, Mendoza, Gordon, Delgado, Berrios, Jefferson, Churchill, Daniels Saviano, McAuliffe, Sullivan Jr., Stephens, Rose, Myers, Lang, D'Amico, Giles, Davis, Flowers, Mautino, Reis, Mitchell, Poe, Brauer, Leitch, Bost, Winters, Tenhouse, Pihos, Krause, Burke, Osterman, Franks, Younge, Granberg, Kelly, Reitz, Molaro, Schock, Smith, Beiser, McGuire, Verschoore, Ryg, Munson, Bellock, Mulligan, Washington, Hamos, Nekritz, Acevedo, Howard, Patterson, Lyons, Bradley, Colvin, Jakobsson, May, Dunkin, Graham, Froehlich, Moffitt, Millner, Lyons, Fritchey, Miller, Rita, Turner, Coulson, Pritchard, Mathias, Meyer; Senators Cullerton, Collins, Martinez, Haine, Althoff.

Related bill SB 477 Sponsors: Senators Cullerton, Haine, Dillard, Raoul, Sandoval, Harmon, Collins; Representatives Mathias, Froehlich, Chavez, Bailey, Delgado, Franks, LaVia, Soto.

Kansas

SB 72 Sponsor: Senator Journey. **SB 151 (amendment to SB 72) Sponsor:** Senator Jordan.

Related bill HB 2004 Sponsor: Representative Ju. Morrison.

Louisiana

HB 56 Sponsors: Representatives Katz, Doerge, St. Germain, Winston, Scalise, Alexander, Badon, Baldone, Barrow, Baudoin, Bruce, Burns, Cravins, Curtis, Dartez, Dorsey, Dove, Downs, Durand, Erdey, Fannin, Farrar, Frith, Gallot, Glover, Greene, Hammett, Hebert, Hill, Hunter, Hutter, Jackson, Jefferson, Johns, Kennard, Kenney, LaBruzzo, LaFonta, Lancaster, McDonald, Montgomery, Morrell, Morrish, Pierre, Pitre, M. Powell, T. Powell, Quezaire, Schneider, Smiley, G. Smith, Strain, Thompson, Townsend, Trahan, Tucker, Waddell, Walker, Walsworth, White, Wooton.

Senator Broome filed the motion to vote on the House bill in the Senate.

Minnesota

HB 1 Sponsors: Representatives Smith, Zellers, Meslow, Gazelka, Brod, Lesch, Severson, Cybart, Peppin, Emmer, Gunther, Ruth, Penas, Abeler, Paulsen, Beard, Holberg, P. Nelson, Hoppe, Finstad, Bradley, Erickson, Dill, Kohls, Demmer, Sylora, Tingelstad, Lanning, Wilkin, Samuelson, J. Johnson, Magnus, Simpson, Garofalo, Cornish. Companion bill **SB 609 Sponsors:** Senators Ranum, Kleis, Fischbach, Reiter, Ruud.

SB 1689 (amendment to HB 1) Sponsors: Senators Pappas, Foley, McGinn, Ranum, Limmer.

Companion bill HB 1760 Sponsors: Representatives Tingelstad, Knoblach, Clark, Thao, Smith, Murphy, Loeffler, Abeler, Gunther, Mariani, Ellison, Holberg, R. Johnson, Walker, Hornstein, Larson, Dorman, Soderstrom, Meslow, Brod, McNamara, Moe, Liebling, Kahn, Greiling.

Missouri

HB 1487 Sponsor: Representative Tom Self.

SB 1210 (amendment to HB 1487) Sponsors: Senators Bray, Bland, Champion, Coleman, Days, Steelman, Yeckel.

New Jersey

AB 2730 Sponsors: Assemblymembers Stender, Cohen, Chivukula, Greenstein, Green, Diegnan, Mayer, Eagler, Conners, Payne, Gusciora.

Related bill SB 1848 Sponsors: Senators Gill, Inverso, Lance, Kyrillos, Kean, Connors, Allen, Turner. **Related bill AB 3213 Sponsor:** Assemblymember Baroni. **Related bill SB 1877 Sponsors:** Senators Inverso, Lance, Kyrillos, Kean, Connors.

Texas

HB 2096 Sponsors: Representatives Pickett, Lucio. **HB 869 (amendment to HB 2096) Sponsors:** Representatives Burnam, Peña, Wohlgemuth, Keel, Riddle, Chavez, Christian, Guillen, Hupp, Madden, Menendez, Seaman, Telford, Truitt, Wong.

Companion bill SB 1953 Sponsors: Senators Van de Putte, Armbrister, Averitt, Barrientos, Bivins, Brimer, Carona, Deuell, Duncan, R. Ellis, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Ratliff, Shapiro, Shapleigh, Staples, Wentworth, West, Whitmire, Williams, Zaffirini.

Washington

HB 1175 Sponsors: Representatives Voloria, Roach, O'Brien, Conway, Clements, Lantz, Linville, Moeller, Delvin, Benson, Darneille, Kerney, Kessler, Simpson, Chase, McMahan, Upthegrove.

Companion bill SB 5670 Sponsors: Senators Fraser, Kohl-Welles, Brandland, Kline, Hargrove, Esser, Thibaudeau, Jacobsen, Prentice, B. Sheldon, Winsley.

Statewide Interagency Task Forces on Human Trafficking

Colorado

HB 1143 Sponsors: Representatives Borodkin, T. Carroll, Curry, Frangas, Lindstrom, Madden, Marshall, Merrifield, Pommet, Todd, Benefield, Berens, Boyd, Cloer, Green, Harvey, Hefley, M. May, McFadyen, McGihon, Riesberg, Romanoff, Solano.

Senators Fitz-Gerald, Bacon, Gordon, Groff, Grossman, Hanna, Isgar, Jones, Sandoval, Shaffer, Tapia, Tochtrop, Tupa, Veiga, Williams, Windels.

Connecticut

HB 5358 Sponsors: Representatives Stillman, Berger, Boucher, Conway, Crisco, Currey, Godfrey, Gonzalez, Googins, Guerrero, Kerensky, Leone, Lewis, Malone, Martinez,

Nafis, Peters, Prague, Roy, Sullivan, Tercyak, Thompson, Willis, Winkler.
Senators Crisco, Sullivan, Prague, Ciotto.

Idaho

HCR 18 Sponsors: State Affairs Committee members -- Representatives Deal, Smylie, Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Jones, Garrett, Loertscher, Anderson, Andrus, Hart, Shepherd, Smith, Pasley-Stuart.

Contacts: Representatives Boe, Pasley-Stuart, Miller, Field, Wills.

Minnesota

HB 1 Sponsors: Representatives Smith, Zellers, Meslow, Gazelka, Brod, Lesch, Severson, Cybart, Peppin, Emmer, Gunther, Ruth, Penas, Abeler, Paulsen, Beard, Holberg, P. Nelson, Hoppe, Finstad, Bradley, Erickson, Dill, Kohls, Demmer, Sykora, Tingelstad, Lanning, Wilkin, Samuelson, J. Johnson, Magnus, Simpson, Garofalo, Cornish.

Companion bill SB 609 Sponsors: Senators Ranum, Kleis, Fischbach, Reiter, Ruud.

SB 1689 (amendment to HB 1) Sponsors: Senators Pappas, Foley, McGinn, Ranum, Limmer. **Companion bill HB 1760 Sponsors:** Tingelstad, Knoblach, Clark, Thao, Smith, Murphy, Loeffler, Abeler, Gunther, Mariani, Ellison, Holberg, R. Johnson, Walker, Hornstein, Larson, Dorman, Scderstrom, Meslow, Brod, McNamara, Moe, Liebling, Kahn, Greiling.

Washington

HB 2381 Sponsors: Representatives Veloria, Van Luven, Kenney, Dunshee, Romero, O'Brien, Darneille, Schual-Berke, Chase, Tokuda, Upthegrove, Edwards, Santos, Kagi, Haigi.

Companion bill SB 6407 Sponsors: Senators Costa, Kohl-Welles, Kline, Kastania, Thibaudeau.

HB 1090 Sponsors: Representatives Veloria, Roach, O'Brien, Bush, Lantz, Clements, Linville, Kenney, Boldt, Sullivan, Upthegrove, Chase, Darneille, Hudgins, Edwards.

HR 4707 Sponsor: Representative Veloria.

International Marriage Brokers/International Matchmaking Organizations (IMOs)

Hawaii

HB 135 Sponsors: Representatives Lee, Sonson, Arakaki, Luke, Morita, Leong, Karamatsu, Abinsay, Shimabukuro, Thielen, Ching, Kawakami, Marumoto, Finnegan, Kahikina, Hale, Pendleton.

Companion bill SB 875 Sponsors: Senators Chun Oakland, Baker, Fukunaga.

Missouri

HB 353 Sponsors: Representatives Lipke, Page, J. Brown, Nieves.

SB 437 (amendment to HB 353) Sponsor: Senator Bray.

Texas

HB 177 Sponsors: Representatives McCall, Castro. Senator West.

Washington

SB 6412 Sponsors: Senators Kohl-Welles, Costa, Prentice, Winsley, Long, Keiser, Benton.

Related bill HB 2667 Sponsors: Representatives Veloria, Darneille, Haigh, Delvin, Tokuda, Chase, Santos.

HB 1826 Sponsors: Representatives Veloria, McMahan, O'Brien, Kenney, Boldt, Mielke, Santos, Hudgins, Upthegrove, Simpson, Conway.

Companion bill SB 5532 Sponsors: Senators Kohl-Welles, Benton, Fraser, Prentice, Carlson, Keiser, Winsley, Schmidt.

Sex Tourism

Hawaii

HB 2020 Sponsors: Representatives Arakaki, Chang, Evans, Hale, Karamatsu, Kawakami, Lee, Leong, Luke, Magaoay, Marumoto, Morita, Shimabukuro, Thielen.

Companion bill SB 2227 Sponsors: Senators Chun Oakland, Baker, Fukunaga, Kim.

**PROFESSOR SUTAPA BASU, Ph.D.
BIOGRAPHICAL INFORMATION**

Dr. Sutapa Basu Sutapa Basu is the Executive Director of the Women's Center and an Assistant Professor of Women's Studies at the University of Washington. Her area of academic specialization is Women and International Development. She has worked extensively with women's groups in India and the U.S. and has spoken nationally and internationally on women in development, microcredit, and violence against women. Her research and activism around the global trafficking of women and children in the sex trade. In India, she has done grassroots work on human trafficking, and is currently leading a case study on trafficked women in the state of Kerala.

Locally, she has worked closely with Washington State Representative Velma Veloria and Senators Cantwell to pass legislation to protect trafficking survivors here in our state. Her work is grounded in her dedication to empower women to speak out more, take leadership roles, demand better working conditions, combat domestic violence, and improve education and family health. She served and continues to serve on various boards and committees, including the UW President's Advisory Committee on Women, UW special Committee on Faculty Women, Indian American Political Advocacy Council; Asian Community Leadership Foundation; Washington State Executive Ethics Board, the King County Civil Rights Commission, KCTS Public Television, and Fred Hutchinson Cancer Center.

She has also received numerous awards for her work. She was the recipient of Soroptomist International Women Helping Women Award, the Florence Merrick Award, Woman of the Year Award, International Examiner Community Voice Award, and the United Nations Human Rights Award.

Dr. Sutapa Basu received her doctorate from Fielding Graduate Institute and was a CSI fellow at Stanford Graduate School of Business for Non-profit Leaders.

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Many people do not believe that human trafficking actually happens in our country. Sadly, my work involves many stories of especially young women and girls who have been victimized by this horrendous crime.

One child's story reveals just the tip of the iceberg regarding this criminal activity - a young girl who didn't know her birth name. She didn't know her family name. She didn't know the name of the village where her birth family lived. She was brought to the Pacific NW at the age of 8 or 9. We have no way of knowing. She was brought by people who knew her birth family. She remembers her mother crying when she was being taken away. She does not believe her mother knew what more powerful people in her village had planned for her. She was taken on a plane with a birth certificate that was not her own. From that day she lost her true identity and only knew the name on that birth certificate. She was promised she would see her family again but she was not told when. She was forced to cook, clean, and care for the children of a strange family's home. She was never paid for her work.

She was beaten and her movement was restricted. She was not allowed consistent access to school so that the family she was living with could keep their secret. At age 19, she spoke as if she were a girl at the age of 12.

Still carrying the emotional and physical scars of victimization, and still looking over her shoulder for the traffickers who stalk her - This child / woman was a victim of human trafficking. A victim of slavery.

This is just one story of many. Women, children, and men are coerced and deceived and stolen from their home countries and brought here to be enslaved for profit. The slavery of today, enhanced by increased access to communications and transportation technology and perpetrated by criminals who understand the vulnerabilities created by economically devastated societies. From the Pacific NW to Canada, to Alaska, throughout the world; this crime violates basic human rights, especially the right to live a life free from violence and tyranny.

The key to ending human trafficking is not about rescuing people who have been victimized but to develop the tools that will help to empower them towards self-determination. This bill will help to increase the power of your State to protect and prosecute. I urge you to acknowledge the need to empower victims of human trafficking.

HB

149

SENATE COMMITTEE REPORT

DATE: 4/14/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 149(FIN) am

HB 149 CONTROLLED SUBSTANCES

"An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; and providing for an effective date."

and recommends:

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

CS Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

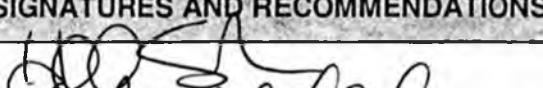

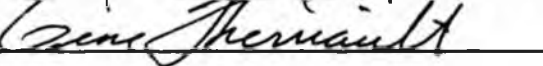
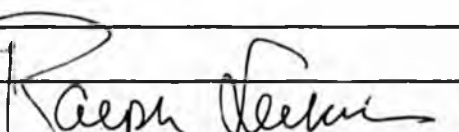
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

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

ALASKA STATE SENATE



Session

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State Capitol
Room 125

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SENATE JUDICIARY COMMITTEE Senator Ralph Seekins, Chairman

Letter of Intent SCSCSHB 149(JUD)

May 3, 2005

It is the intent of the Senate in enacting this measure that release before conviction be limited for makers of methamphetamine whose prior conviction put them on notice of the danger of the chemicals involving in its manufacture and the destructive nature of its effect on users. The danger that the defendant poses to the community is one of the factors that the court must consider under AS 12.30.020 for release on bail, and in the case of manufacturing methamphetamine that factor should be the paramount consideration in setting bail. The Senate finds and determines that the illegal manufacturing of methamphetamine of the type that is generally encountered in Alaska subjects anyone within a wide area to the risk of fire, explosion, and toxic chemicals in gaseous, liquid, and solid form. The process of manufacturing methamphetamine presents such a high level of danger to the community, law enforcement, other first responders, and to environmental personnel, that a mandatory minimum cash bail as set out in this bill is necessitated for defendants previously convicted of manufacturing, delivering or possessing methamphetamine.

Brian Hove

From: Wayne Leighty
Sent: Thursday, April 28, 2005 3:40 PM
To: Brian Hove
Cc: Sen. Gretchen Guess
Subject: Safeway on Meth for 6pm tonight
Importance: High

Brian,

I spoke with Glenn Peterson and Shari Meyers with Safeway regarding the meth bill. Here's a synopsis of their position as I understand it... and a question for you.

They are fine with all provisions of the bill except the log. In fact, they are already keeping products behind the counter, limiting purchase amounts, requiring ID to purchase, and even limiting purchase to those 18 yr. or older. They would prefer to do away with the log provision altogether. If it stays, they would prefer to send their log to DPS weekly so they don't have to keep it on premisis and would prefer to have DPS provide the log and cover the costs of sending it each week. They also offered to participate in whatever "meth task force" Alaska may create and offered to run some kind of test program with the logs in several of their stores to see if it does produce benefits.

They can testify tonight at 6pm but it will conflict with some other commitments. I told them I would ask you whether the committee would like to hear testimony from them tonight and whether we can give a rough estimate of the time for their testimony.

Thanks for your help!

Wayne Leighty
Staff for Senator Guess
Alaska State Legislature
www.GretchenGuess.com

4/28/2005

24-LS0596\K

Luckhaupt

4/28/05

SENATE CS FOR CS FOR HOUSE BILL NO. 149(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES RAMRAS, Wilson, Lynn, McGuire, Gatto, Kelly, Foster, Holm, Stoltze, Gara, Elkins, Crawford, Meyer, Dahlstrom, Croft

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to controlled substances regarding the crimes of manslaughter and
2 misconduct involving a controlled substance; relating to the manufacture of
3 methamphetamine and to the sale, possession, and delivery of certain substances and
4 precursors used in the manufacture of methamphetamine; relating to listing certain
5 anabolic steroids as controlled substances; relating to the listing of property that
6 constitutes an illegal drug manufacturing site; amending Rule 41, Alaska Rules of
7 Criminal Procedure; and providing for an effective date."

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

9 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
10 to read:

11 FINDINGS. The legislature finds that the illegal manufacturing of methamphetamine
12 of the type that is generally encountered in Alaska subjects anyone within a wide area to the
13 risk of fire, explosion, and toxic chemicals in gaseous, liquid, and solid form. This activity

1 presents such a high level of danger to the community and to law enforcement and
2 environmental personnel that the mandatory minimum cash bail required by sec. 8 of this Act
3 is justified for defendants described in that section.

4 * Sec. 2. AS 11.41.120(a) is amended to read:

5 (a) A person commits the crime of manslaughter if the person

6 (1) intentionally, knowingly, or recklessly causes the death of another
7 person under circumstances not amounting to murder in the first or second degree;

8 [OR]

9 (2) intentionally aids another person to commit suicide; or

10 (3) knowingly manufactures or delivers a controlled substance in
11 violation of AS 11.71.010 - 11.71.030 or 11.71.040(a)(1) for schedule IVA
12 controlled substances, and a person dies as a direct result of ingestion of the
13 controlled substance; the death is a result that does not require a culpable mental
14 state; in this paragraph, "ingestion" means voluntarily or involuntarily taking a
15 substance into the body in any manner.

16 * Sec. 3. AS 11.71.020(a) is amended to read:

17 (a) Except as authorized in AS 17.30, a person commits the crime of
18 misconduct involving a controlled substance in the second degree if the person

19 (1) manufactures or delivers any amount of a schedule IA controlled
20 substance or possesses any amount of a schedule IA controlled substance with intent
21 to manufacture or deliver;

22 (2) manufactures any material, compound, mixture, or preparation that
23 contains

24 (A) methamphetamine, or its salts, isomers, or salts of isomers;

25 or

26 (B) an immediate precursor of methamphetamine, or its salts,
27 isomers, or salts of isomers;

28 (3) possesses an immediate precursor of methamphetamine, or the
29 salts, isomers, or salts of isomers of the immediate precursor of methamphetamine,
30 with the intent to manufacture any material, compound, mixture, or preparation that
31 contains methamphetamine, or its salts, isomers, or salts of isomers; [OR]

1 (4) possesses a listed chemical with intent to manufacture any material,
2 compound, mixture, or preparation that contains

3 (A) methamphetamine, or its salts, isomers, or salts of isomers;

4 or

5 (B) an immediate precursor of methamphetamine, or its salts,
6 isomers, or salts of isomer;

7 (5) possesses methamphetamine in an organic solution with intent
8 to extract from it methamphetamine or its salts, isomers, or salts of isomers; or

9 (6) under circumstances not proscribed under AS 11.71.010(a)(2),
10 delivers

11 (A) an immediate precursor of methamphetamine, or the
12 salts, isomers, or salts of isomers of the immediate precursor of
13 methamphetamine, to another person with reckless disregard that the
14 precursor will be used to manufacture any material, compound, mixture,
15 or preparation that contains methamphetamine, or its salts, isomers, or
16 salts of isomers; or

17 (B) a listed chemical to another person with reckless
18 disregard that the listed chemical will be used to manufacture any
19 material, compound, mixture, or preparation that contains

20 (i) methamphetamine, or its salts, isomers, or salts of
21 isomers;

22 (ii) an immediate precursor of methamphetamine, or
23 its salts, isomers, or salts of isomers; or

24 (iii) methamphetamine or its salts, isomers, or salts
25 of isomers in an organic solution.

26 * Sec. 4. AS 11.71.020 is amended by adding a new subsection to read:

27 (d) In a prosecution under (a) of this section, possession of more than nine
28 grams of the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, the
29 salts, isomers, or salts of isomers of those chemicals is prima facie evidence that the
30 person intended to use the listed chemicals to manufacture, to aid or abet another
31 person to manufacture, or to deliver to another person who intends to manufacture

1 methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers
2 of methamphetamine or its immediate precursors. The prima facie evidence described
3 in this subsection does not apply to a person who possesses

4 (1) the listed chemicals ephedrine, pseudoephedrine,
5 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals

6 (A) and the listed chemical was dispensed to the person under a
7 valid prescription; or

8 (B) in the ordinary course of a legitimate business, or an
9 employee of a legitimate business, as a

10 (i) retailer or as a wholesaler;

11 (ii) wholesale drug distributor licensed by the Board of
12 Pharmacy;

13 (iii) manufacturer of drug products licensed by the
14 Board of Pharmacy;

15 (iv) pharmacist licensed by the Board of Pharmacy; or

16 (v) health care professional licensed by the state; or

17 (2) less than 24 grams of ephedrine, pseudoephedrine,
18 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals in a
19 home or business establishment under circumstances that are consistent with typical
20 medicinal or household use, as indicated by factors that include storage location,
21 purchase date, possession of the products in a variety of strengths, brands, types,
22 purposes, and expiration dates; the exception provided in this paragraph does not
23 apply if the substances in excess of nine grams were all purchased within a period of
24 thirty consecutive days unless purchased by a legitimate business for use in the
25 ordinary course of the business.

26 * Sec. 5. AS 11.71.030(a) is amended to read:

27 (a) Except as authorized in AS 17.30, a person commits the crime of
28 misconduct involving a controlled substance in the third degree if the person

29 (1) under circumstances not proscribed under AS 11.71.020(a)(2) - (6)
30 [AS 11.71.020(a)(2) - (4)], manufactures or delivers any amount of a schedule IIA or
31 IIIA controlled substance or possesses any amount of a schedule IIA or IIIA controlled

1 substance with intent to manufacture or deliver;

2 (2) delivers any amount of a schedule IVA, VA, or VIA controlled
3 substance to a person under 19 years of age who is at least three years younger than
4 the person delivering the substance; or

5 (3) possesses any amount of a schedule IA or IIA controlled substance

6 (A) with reckless disregard that the possession occurs

7 (i) on or within 500 feet of school grounds; or

8 (ii) at or within 500 feet of a recreation or youth center;

9 or

10 (B) on a school bus.

11 * Sec. 6. AS 11.71.180 is amended by adding a new subsection to read:

12 (f) Schedule VA includes, unless specifically excepted or unless listed in
13 another schedule, any material, compound, mixture, or preparation that contains any
14 quantity of the following substances, including their salts, esters, isomers, and salts of
15 esters and isomers if those salts, esters, or isomers promote muscle growth, whenever
16 the existence of these salts, esters, and isomers is possible within the specific chemical
17 designation: anabolic steroids. In this subsection, "anabolic steroids" means any drug
18 or hormonal substance that is chemically and pharmacologically related to testosterone
19 (other than estrogens, progestins, and corticosteroids) and that promotes muscle
20 growth; "anabolic steroids" does not include an anabolic steroid that is expressly
21 intended for administration through implants to cattle or other nonhuman species and
22 that has been approved by the United States Secretary of Health and Human Services
23 for that administration, unless a person prescribes, dispenses, or distributes that type of
24 anabolic steroid for human use; "anabolic steroids" includes the following:

25 (1) boldenone;

26 (2) chlorotestosterone (4-chlorotestosterone);

27 (3) clostebol;

28 (4) dehydrochlormethyltestosterone;

29 (5) dihydrotestosterone (4-dihydrotestosterone);

30 (6) drostanolone;

31 (7) ethylestrenol;

- 1 (8) fluoxymesterone;
- 2 (9) formebolone (formebolone);
- 3 (10) mesterolone;
- 4 (11) methandienone;
- 5 (12) methandranone;
- 6 (13) methandriol;
- 7 (14) methandrostenolone;
- 8 (15) methenolone;
- 9 (16) methyltestosterone;
- 10 (17) mibolerone;
- 11 (18) nandrolone;
- 12 (19) norethandrolone;
- 13 (20) oxandrolone;
- 14 (21) oxymesterone;
- 15 (22) oxymetholone;
- 16 (23) stanolone;
- 17 (24) stanozolol;
- 18 (25) testolactone;
- 19 (26) testosterone;
- 20 (27) trenbolone.

21 * Sec. 7. AS 11.71 is amended by adding a new section to article 2 to read:

22 **Sec. 11.71.210. Purchase or receipt of restricted amounts of certain listed**
23 **chemicals.** (a) A person commits the crime of purchase or receipt of restricted
24 amounts of certain listed chemicals if the person purchases or receives more than nine
25 grams of the following listed chemical, its salts, isomers, or salts of isomers within
26 any 30-day period:

- 27 (1) ephedrine under AS 11.71.200(4);
- 28 (2) pseudoephedrine under AS 11.71.200(13);
- 29 (3) phenylpropanolamine under AS 11.71.200(11).

30 (b) This section does not apply to a person who lawfully purchases or receives
31 more than nine grams of a listed chemical identified in (a) of this section

1 (1) that was dispensed to the person under a valid prescription; or
 2 (2) in the ordinary course of a legitimate business, or to an employee
 3 of a legitimate business, as a

4 (A) retailer or as a wholesaler;

5 (B) wholesale drug distributor licensed by the Board of
 6 Pharmacy;

7 (C) manufacturer of drug products licensed by the Board of
 8 Pharmacy;

9 (D) pharmacist licensed by the Board of Pharmacy; or

10 (E) a health care professional licensed by the state.

11 (c) Purchase or receipt of restricted amounts of certain listed chemicals is a
 12 class C felony.

13 * Sec. 8. AS 12.30.023 is amended by adding a new subsection to read:

14 (b) In addition to conditions the court may impose under (a) of this section and
 15 notwithstanding other provisions in this chapter, if the defendant is charged with
 16 manufacturing methamphetamine under AS 11.71.020(a)(2), unless the defendant
 17 proves to the satisfaction of the court that the defendant's only role in the offense was
 18 as an aider or abettor and that the defendant did not stand to benefit financially from
 19 the manufacturing, the court shall require the posting of a minimum of \$250,000 cash
 20 bond if the defendant has previously been convicted in this or another jurisdiction of
 21 manufacturing, delivering, or possessing methamphetamine.

22 * Sec. 9. AS 12.55.125(c), as amended by ch. 2, sec. 8, SLA 2005, is amended to read:

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

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

29 (2) if the offense is a first felony conviction

30 (A) and the defendant possessed a firearm, used a dangerous
 31 instrument, or caused serious physical injury or death during the commission

1 of the offense, or knowingly directed the conduct constituting the offense at a
 2 uniformed or otherwise clearly identified peace officer, fire fighter,
 3 correctional employee, emergency medical technician, paramedic, ambulance
 4 attendant, or other emergency responder who was engaged in the performance
 5 of official duties at the time of the offense, seven to 11 years;

6 (B) and the conviction is for manufacturing related to
 7 methamphetamine under AS 11.71.020(a)(2)(A) or (B), seven to 11 years,

8 if

9 (i) the manufacturing occurred in a building with
 10 reckless disregard that the building was used as a permanent or
 11 temporary home or place of lodging for one or more children
 12 under 18 years of age or the building was a place frequented by
 13 children; or

14 (ii) in the course of manufacturing or in preparation
 15 for manufacturing, the defendant obtained the assistance of one or
 16 more children under 18 years of age or one or more children were
 17 present;

18 (3) if the offense is a second felony conviction, 10 to 14 years;

19 (4) if the offense is a third felony conviction and the defendant is not
 20 subject to sentencing under (1) of this section, 15 to 20 years.

21 * Sec. 10. AS 12.55.125(d), as amended by ch. 2, sec. 9, SLA 2005, is amended to read:

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

26 (1) if the offense is a first felony conviction and does not involve
 27 circumstances described in (2) of this subsection, one to three years; a defendant
 28 sentenced under this paragraph may, if the court finds it appropriate, be granted a
 29 suspended imposition of sentence under AS 12.55.085 if, as a condition of probation
 30 under AS 12.55.086, the defendant is required to serve an active term of imprisonment
 31 within the range specified in this paragraph, unless the court finds that a mitigation

1 factor under AS 12.55.155 applies;

2 (2) if the offense is a first felony conviction,

3 (A) the defendant violated AS 11.41.130, and the victim was a
4 child under 16 years of age, two to four years;

5 (B) two to four years if the conviction is for an attempt,
6 solicitation, or conspiracy to manufacture related to methamphetamine
7 under AS 11.31 and AS 11.71.020(a)(2)(A) or (B), and

8 (i) the attempted manufacturing occurred, or the
9 solicited or conspired offense was to have occurred, in a building
10 with reckless disregard that the building was used as a permanent
11 or temporary home or place of lodging for one or more children
12 under 18 years of age or the building was a place frequented by
13 children; or

14 (ii) in the course of an attempt to manufacture, the
15 defendant obtained the assistance of one or more children under 18
16 years of age or one or more children were present;

17 (3) if the offense is a second felony conviction, four to seven years;

18 (4) if the offense is a third felony conviction, six to 10 years.

19 * Sec. 11. AS 12.55.185 is amended by adding a new paragraph to read:

20 (1) "building," in addition to its usual meaning, includes any propelled
21 vehicle or structure adopted for overnight accommodation of persons or for carrying
22 on business; when a building consists of separate units, including apartment units,
23 offices, or rented rooms, each unit is considered a part of the same building.

24 * Sec. 12. AS 17.30 is amended by adding a new section to article 1 to read:

25 **Sec. 17.30.090. Dispensation of and registration and record requirements**
26 **for certain listed chemicals.** (a) A wholesaler, manufacturer, or distributor of
27 products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their
28 salts, isomers, or salts of isomers, or iodine or crystal iodine, shall keep complete
29 records of all transactions involving those products, including the names of all parties
30 involved in the transaction, the date of the transaction, and the amount of the drug
31 products involved. The records shall be kept readily retrievable for inspection by law

1 enforcement officers and separate from all other invoices or records of transactions not
 2 involving those products and shall be maintained for one year, or a period of time
 3 established by the Department of Public Safety by regulation, and must allow for
 4 inspection of the records by law enforcement officers.

5 (b) A retailer of a product or substance that contains (1) as the sole active
 6 ingredient ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers,
 7 or salts of isomers, (2) iodine, or crystal iodine, ~~or~~ (3) ~~any other ingredient~~ when
 8 required by the Department of Public Safety by regulation, may not sell or dispense
 9 the product or substance unless the retailer confirms the identity of the purchaser by
 10 valid government-issued photo identification and the retailer requires the purchaser to
 11 sign a written log completed by the retailer listing information required by the
 12 Department of Public Safety by regulation. The Department of Public Safety and
 13 other law enforcement officers shall have access to the log. The log and the
 14 information entered into the log is confidential. The retailer may not allow access to
 15 the log or release information contained within the log except to the Department of
 16 Public Safety or other law enforcement officers.

17 (c) A person may not offer to sell a product or substance that contains (1) as
 18 the sole active ingredient ephedrine, pseudoephedrine, or phenylpropanolamine, or
 19 their salt, isomers, or salts of isomers, (2) iodine, or crystal iodine, or (3) any
 20 ~~additional~~ ^{other ingredient} product when required by the Department of Public Safety by regulation
 21 unless that product or substance is displayed behind a service counter and not
 22 accessible to the public or is kept in a secured cabinet or storage area that may only be
 23 accessed by the seller.

24 (d) Nothing in this section limits the authority of a person regulated by this
 25 section to report to a law enforcement agency or officer suspicious purchases of a
 26 chemical, product, or substance.

27 (e) Notwithstanding (a) of this section, if a municipality enacts an ordinance
 28 requiring wholesalers, manufacturers, and distributors to report the information
 29 maintained under (a) of this section, each wholesaler, manufacturer, and distributor
 30 shall regularly report that information to the municipal police department at intervals
 31 required in the ordinance.

#12
 open
 product
 or
 substance

#13

1 (f) Upon the written request of any law enforcement agency, any wholesaler,
2 manufacturer, distributor, or a retailer shall report electronically or by mail the
3 information collected in (a) or (b) of this section for the subsequent six month period.

4 (g) A person has a duty to exercise that degree of care that a reasonable person
5 would observe to ensure that the requirements of (b) and (c) of this section are
6 complied with. This duty of the person includes ensuring the compliance by agents or
7 employees with this section, including acting with reasonable diligence to determine
8 that agents or employees are advised of the provisions of this section, either by
9 securing the agent's or employee's written acknowledgment of posted instructions or
10 otherwise. A person may neither knowingly allow agents or employees to violate this
11 section nor recklessly or with criminal negligence fail to act in accordance with the
12 duty prescribed under this subsection with the result that an agent or employee of the
13 licensee violates a provision of this section.

14 (h) It is an affirmative defense to a prosecution of a person that the person
15 exercised that degree of care specified in (g) of this section and did not knowingly
16 allow a violation of this section or recklessly or with criminal negligence fail to act as
17 required by this section.

18 (i) A person who knowingly violates (a), (b), or (c) of this section is guilty of a
19 class A misdemeanor, punishable upon conviction only by a fine in an amount not to
20 exceed \$10,000. A wholesaler, manufacturer, or distributor that knowingly fails to
21 report as required by (e) of this section is guilty of a violation.

22 (j) In this section,

23 (1) "criminal negligence" has the meaning given in AS 11.81.900(a);

24 (2) "distributor" means a person in the state or another state, other than
25 a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes
26 a drug product described in (a) of this section to a person who is not the ultimate user
27 or consumer of the product;

28 (3) "knowingly" has the meaning given in AS 11.81.900(a);

29 (4) "manufacturer" means a person in the state who produces,
30 compounds, packages, or in any manner initially prepares for sale or use a drug
31 product described in (a) of this section, or a person in another state if the person causes

1 the products to be compounded in, packaged in, or transported to this state;

2 (5) "readily retrievable" means available for inspection without prior
3 notice at the registration address if that address is in the state; if the registration
4 address is outside the state, "readily retrievable" means records must be furnished
5 within three working days by courier, facsimile, mail, or electronic mail;

6 (6) "recklessly" has the meaning given in AS 11.81.900(a);

7 (7) "wholesaler" means a person in the state or another state, other than
8 a manufacturer, who sells, transfers, or in any manner furnishes a drug product
9 described in (a) of this section to another person in the state for the purpose of the drug
10 product's being resold.

11 * Sec. 13. AS 46.03.500 is amended by adding a new subsection to read.

12 (f) The department shall maintain on its Internet website a list of all properties
13 for which a notice has been issued under (a) of this section. For each of those
14 properties, the list must contain the parcel identification number, legal description, and
15 physical address and owner's name at the time the notice was issued.

16 * Sec. 14. AS 46.03.550(b) is amended to read:

17 (b) The department shall maintain a list of properties for which the department
18 has received notice under AS 46.03.500(c). When the department determines under (a)
19 of this section that a property on the list is fit for use, the department shall note on the
20 list maintained on its Internet website under AS 46.03.500(f), and on any other
21 list or database it maintains related to illegal drug manufacturing sites, that the
22 property is fit for use [REMOVE THE PROPERTY FROM THE LIST] and shall
23 notify the owner of the property that the property is fit for use. The property shall
24 remain on the lists or databases for five years after it is determined that the
25 property is fit for use and shall be removed from the lists or databases within
26 three months after the five year period has elapsed. On request, the department
27 shall give a copy of the list maintained under this section to any person who requests
28 the list.

29 * Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 INDIRECT COURT RULE AMENDMENT. Section 8 of this Act has the effect of

1 amending Rule 41, Alaska Rules of Criminal Procedure, by limiting the type and amount of
2 bond that can be posted to secure the pretrial release of certain defendants charged with
3 manufacturing methamphetamine under AS 11.71.020(a)(2).

4 * Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 APPLICABILITY. Sections 2 - 12 and 15 of this Act apply to offenses committed on
7 or after the effective date of this Act.

8 * Sec. 17. AS 17.30.090 is repealed.

9 * Sec. 18. Sections 1 - 16 of this Act take effect July 1, 2005.

10 * Sec. 19. Section 17 of this Act takes effect June 30, 2007.

AMENDMENT

#1

Adopted

OFFERED IN THE SENATE

TO: SCS CSHB 149(JUD), Draft Version "K"

1 Page 10, lines 13 - 16:

2 Delete "The log and the information entered into the log is confidential. The retailer
3 may not allow access to the log or release information contained within the log except to the
4 Department of Public Safety or other law enforcement officers."

5

6 Page 11, following line 3:

7 Insert a new subsection to read:

8 (g) The log required to be maintained by a retailer under (b) of this section and
9 the information entered into the log is confidential. The retailer may not allow access
10 to the log or release information contained within the log except to the Department of
11 Public Safety or other law enforcement officers."

12

13 Reletter the following subsections accordingly.

14

15 Page 11, line 15:

16 Delete "(g)"

17 Insert "(h)"

18

19 Page 11, line 21, following "violation.":

20 Insert "A retailer who knowingly violates (g) of this section is guilty of a violation."

AMENDMENT

#2

OFFERED IN THE SENATE

TO: SCS CSHB 149(JUD), Draft Version "K"

- 1 Page 11, line 3:
- 2 Delete "subsequent"
- 3 Following "period":
- 4 Insert "following the written request"

AMENDMENT

#3

OFFERED IN THE SENATE

TO: SCS CSHB 149(JUD), Draft Version "K"

- 1 Page 10, line 20, following "regulation":
- 2 Insert "due to the product's potential for diversion to the manufacture of
- 3 methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers of
- 4 methamphetamine or its immediate precursors"