

12052

SENATE STATE AFFAIRS

SB

127

Senator Hollis French

Capitol Room 504
465-3892
465-6595 fax



MEMORANDUM

Date: April 6, 2005

To: Senator Gene Therriault, Chair
Senate State Affairs Committee

From: Senator Hollis French 

RE: SB 127 – An Act prohibiting a public officer from taking official action regarding a matter in which the public officer has a significant financial interest; and defining 'official action' for purposes of the chapter generally referred to as the Executive Branch Ethics Act

Please schedule SB 127 – “An Act prohibiting a public officer from taking official action regarding a matter in which the public officer has a significant financial interest; and defining 'official action' for purposes of the chapter generally referred to as the Executive Branch Ethics Act” for a hearing as soon as possible.

A copy of the bill is attached, along with a Sponsor Statement and a Sectional Analysis. Other materials for the committee's bill packets will be available after the bill has been scheduled.

Thank you.

Enclosures

ALASKA STATE LEGISLATURE

SENATOR HOLLIS FRENCH

SPONSOR STATEMENT

SB 127 – Executive Branch Ethics Act Revisions

SB 127 is a responsible step toward making the Executive Branch Ethics Act clearer, easier to understand, and easier to follow. The bill would fix three problems with the current Ethics Act.

First, the bill sets a clear financial line for executive branch employees' personal financial holdings. The bill declares that a financial holding is "insignificant" only if it is less than \$5000 or 1% of a company's stock, whichever is less. This definition, which is missing under current law, lets executive branch employees know exactly where they can, and cannot, be involved in state decisions that would affect their personal investments.

SB 127 also broadens the definition of "official action" to include most of the day-to-day work activities performed by executive branch employees. This is a key definition: state employees should not be able to use their state offices to benefit their pocketbooks, and then claim that their acts were not "official." If an employee's act is within the scope of the employee's work performance, then it counts as "official" under SB 127.

Finally, the bill removes a potential loophole by removing an "or" from the current law. The current law declares that there is no violation of the law if a public officer's personal or financial interest is "insignificant, or of a type that is possessed generally by the public or a large class of persons to which the public officers belongs." The wording of the current law is unfortunate. An executive

branch employee could have \$1,000,000 worth of stock in a company that directly benefited from the employee's official actions. But if the same employee also had an interest possessed generally by the public, then the "or" would work to absolve the employee of wrongdoing. Such a situation might arise for employees that deal with the Permanent Fund investments, for example.

The state's ethics laws should be clear to executive branch employees, and to the public those employees serve. Please join me in supporting SB 127.

March 17, 2005

ALASKA STATE LEGISLATURE

SENATOR HOLLIS FRENCH

SECTIONAL ANALYSIS

SB 127 – Executive Branch Ethics Act Revisions

Section 1 Clarifies the conditions under which an official action by a public official is not a violation of the Executive Branch Ethics Act and, thus, by exclusion, the conditions under which an action is a violation of the Act. Establishes that there is no substantial impropriety, i.e., that it is not a violation of the Executive Branch Ethics Act, for a public officer to take an official action or exercise influence on a matter in the following situations:

- ◆ The public officer has a personal or financial interest in the matter but the action taken or influence exercised would have insignificant or conjectural effect on the matter;
- ◆ The public officer has a personal interest in a matter that is insignificant or is possessed by the public or by a large class of persons to which the public officer belongs; OR
- ◆ The public officer or an immediate family member has a financial interest in the matter, including a property ownership or a professional or private relationship that is, or could be, a source of income, AND the value of that interest is less than \$5,000 or 1 percent of the total value of the business, whichever is less.

However, if a public officer or an immediate family member has a financial interest in a matter

- ◆ that equals or exceeds \$5,000 or 1 percent of the total value of the business or
- ◆ from which the individual has received or expects to receive a **financial benefit equal to or greater than \$5,000,**

taking official action regarding the matter would be a violation of the Executive Branch Ethics Act.

Section 2

Expands the definition of “official action” in the executive ethics act to include performance of any duties in the course and scope of a public officer’s employment. This includes, in addition to actions already stated in statute, “review, advice, participation, assistance, or another kind of involvement regarding a matter.”

March 17, 2005

SB

132

STATE OF ALASKA

FRANK H. MURKOWSKI,
GOVERNOR

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

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

March 10, 2005

The Honorable Gene Therriault
Senate State Affairs Committee
Alaska State Legislature
State Capitol, Room 119
Juneau, Alaska 99801-1182

Re: SB 132 -- State Human Rights Commission

Dear Senator Therriault:

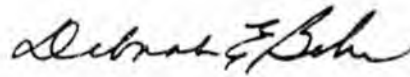
Attached please find a sectional analysis for SB 132, State Human Rights Commission.

If you have questions, please contact Assistant Attorney General Jan DeYoung at 260-5100, who prepared the sectional analysis.

Sincerely,

SCOTT J. NORDSTRAND
ACTING ATTORNEY GENERAL

By:



Deborah E. Behr
Assistant Attorney General

DEB:pvv

cc: Kevin Jardell, Legislative Director, Office of the Governor
David Márquez, Legislative Contact, Dept. of Law
Mike Tibbles, Legislative Contact, Dept. of Administration
Jan DeYoung, Assistant Attorney General, Anchorage

FRANK H. MURKOWSKI

GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

March 8, 2005

Senator Gene Therriault, Chair
Senate State Affairs Committee
State Capitol, Room 119
Juneau, AK 99801-1182

Dear Senator Therriault:

The Office of the Governor respectfully requests that SB 132 (An Act relating to the Human Rights Commission) be scheduled for a hearing in the Senate State Affairs Committee at your earliest convenience.

For your review and consideration, I have attached the Governor's transmittal letter, a copy of SB 132, and two fiscal notes.

A representative from the Dept. of Law will be available to present the bill.

Sincerely,

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

KEVIN JARDELL
LEGISLATIVE DIRECTOR

STATE OF ALASKA

FRANK H. MURKOWSKI,
GOVERNOR

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

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

March 7, 2005

The Honorable Gene Therriault, Chair
Senate State Affairs Committee
Alaska State Legislature
State Capitol, Room 119
Juneau, Alaska 99801-1182

Re: SB 132 - State Human Rights
Commission

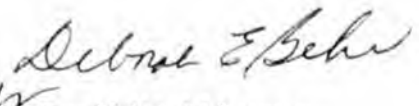
Dear Senator Therriault:

The Department of Law would appreciate scheduling of the above bill for a hearing in your committee, at your earliest convenience. The bill resides in your committee and is a high priority of the Administration.

If you have any questions, please feel free to contact me.

Sincerely,

SCOTT J. NORDSTRAND
ACTING ATTORNEY GENERAL

By: 
David W. Márquez
Assistant Attorney General

DWM:DEB:pvp

cc: Kevin Jardell, Legislative Director, Office of the Governor
Deborah Behr, Legislation and Regulations Attorney, Department of Law

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

March 3, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would amend the investigation and procedure laws of the State Commission for Human Rights (commission). The bill would amend the investigation and hearing procedures to enhance fairness and efficiency and to give the commission more enforcement discretion to increase its effectiveness in combating unlawful discrimination.

The bill would add a new statutory provision, AS 18.80.112, to provide the staff of the commission with greater authority to evaluate complaints of discrimination and to choose the complaints that it pursues to hearing before the commission. The purpose of the amendment is to reverse the Alaska Supreme Court's decision in *Department of Fish and Game v. Meyer*, 906 P.2d 1365 (Alaska 1995), that a hearing is mandatory if a complaint is supported by substantial evidence. The court concluded that the state human rights laws did not give the commission staff discretion to discontinue action on a complaint after an investigator found substantial evidence of unlawful discrimination. *Id.*, at 1373. The effect of this decision was to require the commission to commit its resources to any complaint supported by substantial evidence without regard to such factors as the weakness of the evidence, the strength of an employer's affirmative defenses, or the significance of the alleged violation. Providing the commission with genuine prosecutorial discretion would allow the commission to commit its resources to complaints it determines merit pursuit, based on such factors as, for example, the strength of the evidence, the severity of the alleged violation, an employer's history before the commission, or the complaint's value in establishing precedent guiding future conduct.

The Honorable Ben Stevens
March 3, 2005
Page 2

The discretion of the staff of the commission would also be expanded to allow it to compromise a claim for damages in the conciliation (or prehearing) phase of the procedures. The bill would avoid conflicts between staff's exercise of its expanded discretion to compromise, dismiss, or pursue a complaint and the concerns of the victims of unlawful discrimination by allowing a complainant to opt out of commission procedures. A complainant may withdraw the complaint at any time before the executive director of the commission makes the decision to go to hearing and, after withdrawal, pursue the claim independently of the commission in another forum.

The bill would expand on a procedural change made in 2004 when the power to appoint the individuals who conduct commission hearings was moved from the commission to the chief administrative law judge in the Department of Administration. The bill would apply all of the statutes regarding hearings of the office of administrative hearings to the commission (including statutes addressing the qualifications of the persons who would conduct the commission's hearings) except for the statutes establishing hearing procedures. The commission's hearing procedures would be any specific procedures set out in AS 18.80 and the uniform procedures in the Administrative Procedure Act, AS 44.62.330 - 44.62.630. The bill would eliminate from AS 18.80 some duplicative procedural requirements that are addressed in the Administrative Procedure Act, such as the admissibility of evidence and the requirement that testimony be under oath. Another change would be the addition of a provision similar to a motion for summary judgment in the civil rules of court to allow a summary decision on the law if the facts are not disputed. The reason for allowing a summary decision is that it is a faster procedure than a hearing, and it would provide a sufficient opportunity to be heard on the legal issues when the facts are not in dispute. The bill would add a provision tying the rate of interest on commission economic awards to the rate of interest on judgments in AS 09.30.070, to conform the commission's rate to the rate awarded by other administrative agencies and the courts. It would continue to allow the commission to amend an accusation after a case is referred for hearing, but it would require that each new claim be supported by substantial evidence and that the commission provide a respondent with the opportunity to address new claims informally before being required to defend them in a formal hearing. The bill would move the statute of limitations for bringing a claim from regulation (6 AAC 30.230) to statute.

The bill would identify the specific relief available to remedy discrimination, to make the process more open and predictable and, thus, fairer. The bill would incorporate into statute the Alaska Supreme Court's conclusion that the commission lacks the authority to award punitive or

The Honorable Ben Stevens
March 3, 2005
Page 3

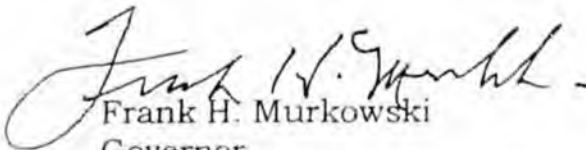
noneconomic damages. The bill would amend AS 18.30.130 to establish restoration of the benefit that was deprived -- hiring, promotion, or reinstatement to a position with back pay -- as the customary remedy for unlawful employment discrimination. The bill would define "pay" broadly to mean all compensation for service, including the cost of employee benefits. In the unusual case of an employee who is unable to return to work, the bill would allow an award of up to one year of future compensation. For any pay that the commission awards, the bill would require the commission to offset the amount an employee should have been able to earn after making a reasonable effort to find similar work.

Very importantly, under the bill the commission would retain the authority to order affirmative action to correct unlawful discrimination and to award "any appropriate relief" if it needs to innovate in order to remedy an unusual case of discrimination.

By increasing the commission's discretion in handling complaints, the bill would enable the commission to allocate its diminishing resources to cases in which the commission could be the most effective in addressing and eliminating unlawful discrimination. By streamlining commission procedures, the bill would help contain costs and ensure that the procedures are equitable to both complainants and the persons, businesses, labor organizations, and employment agencies charged before the commission with unlawful discrimination.

I urge your prompt and favorable action on this bill.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

SB

134

Alaska State Legislature


Senator Con Bunde
District P

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

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-4843

During Interim:
716 W. Fourth Avenue
Anchorage, AK 99501-2133
(907) 269-0181

MEMORANDUM

DATE: March 15, 2005
TO: Senator Therriault
FROM: Senator Con Bunde 
RE: Senate Bill 134 Hearing Request

Senator Therriault:

Attached please find the bill packet for SB 134. I respectfully request a hearing in the Senate State Affairs Committee as soon as possible.

Thank you for your consideration. If you have any questions or would like more information, please call my office at x 4843.

Sincerely,
Senator Con Bunde



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Con Bunde
Current Version: SB 134
Contact: Lauren Wickersham, 465-4843

Fact Sheet for: Senate Bill 134

Short Title: POLICE INVESTIGATION STANDARDS/ARRESTS

Summary:

- Requires law enforcement officers to make an arrest when there is reasonable evidence a crime has been committed, and when an admission of guilt has been made or when the officer is in a position to hear an admission of guilt.
- Requires the Police Standards Council to create standards for investigations.
- Gives the council the power and responsibility to reprimand, discipline or even revoke an officer's certification based on a mishandled criminal investigation.

Benefits:

- Provides crime victims a place to bring complaints regarding the criminal investigation.
- Assures the public that officers are held accountable for criminal investigations.

Background:

- Crime victims have no direct method to question the process police officers followed to investigate the crime committed against them. SB 134 requires the Police Standards Council to adopt standards for police investigations and submissions forwarded to the District Attorney's office. The council will have the power to reprimand, discipline or even revoke an officers certification based on the results of the inquiry.



Alaska State Legislature

Senator Con Bunde
Senate District P

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

Sponsor Statement for SB 134

"An Act relating to arrest; relating to investigation standards for police officers conducting criminal investigations and violations of those standards."

SB 134 charges the Alaska Police Standards Council with creating standards for sexual assault investigations and protocol. It also gives the council the power and responsibility to reprimand or even revoke an officer's certification based on a mishandled or negligent investigation. The bill also requires that when an officer is privy to an admission of guilt made by the suspect, an arrest must be made *at some point* during an investigation. There is no time requirement on the arrest, which allows an officer discretion in an investigation.

According to the Federal Bureau of Investigation (FBI) Uniform Crime Report (UCR), *Alaska has the highest per capita rate of reported rapes*. In 2003, our 600 reported rapes equaled a rate of 92.5 rapes per 100,000 inhabitants. Michigan, ranking as the second highest state, had 54.1 reported rapes per 100,000 inhabitants. To summarize, Alaska's per capita rape rate is nearly 71% greater than that of the next highest state.

However, Alaska's rate of arrest is almost *half* the national average. On a national average, 28 arrests are made for every 100 reported rapes. In Alaska, 17 arrests are made for every 100 reported rapes (2003 UCR). Nationwide, it is calculated that a sex offender will go to prison for only 6 out of every 100 sexual assaults—per capita, convictions in Alaska are most likely less common.

Across the U.S., states have charged task forces to create minimum standards and protocol for sexual assault investigations (Connecticut, Illinois, Kentucky, Michigan, Minnesota, New York, Oregon, Vermont and Texas). Some standards are regulation and some are suggestions for protocol. More frequently, individual police departments and municipalities will adopt standards that fit well with local circumstances and needs. While this may be an effective approach for many states, Alaska is unique.

Currently the Alaska Police Standards Council (APSC) serves to establish and enforce minimum standards for employment, training and retention of police officers. APSC also determines whether or not an officer should remain employed or be disciplined if he or she has been charged with a crime or inappropriate conduct. However, under current practices, crime victims and the public at large have no direct method to question the practices of police investigations or conduct. In larger municipalities, a victim may file a complaint; however, in most cases, all proceedings with the complaint are kept private within the police department and the victim has no formal recourse or resolution. In smaller, rural areas, there is no department in which to file the complaint. Often times, there are only one or two police and peace officers in the area. This truly leaves the victim without recourse. This bill provides crime victims a place to bring complaints regarding an officer's conduct and assures the public that officers are held accountable for criminal sexual assault investigations.

I urge your support of SB 134.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 134
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to arrest;... RDU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Senator Bunde
 Requester Senate State Affairs Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 00
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill amends the Code of Criminal Procedure to require peace officers to make an arrest when there is reasonable cause to believe a crime has been committed and the person to be arrested has admitted committing the crime either to an officer or in a recording. The Public Defender Agency's operations will be fiscally impacted because mandatory arrests will result in more criminal charges being prosecuted, thereby increasing the number of cases handled by the Agency. It is not possible to predict with any accuracy, however, the number of new cases assigned to the Agency, that will be generated as a result of these mandatory arrests, therefore an indeterminate note is submitted.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)334-4416
 Division Public Defender Agency Date/Time 3/15/05 1:51 PM
 Approved by: Mike Tibbles, Deputy Commissioner Date 3/15/2005
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB134-LAW-CDCO-3-11
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act relating to arrest; relating to investigation standards for police officers conducting criminal..." RDU: CRIMINAL
Component: Criminal Justice Litigation
Sponsor: Senator Bunde
Requester: Senate State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	*****	*****	*****	*****	*****	*****
Travel	*****	*****	*****	*****	*****	*****
Contractual	*****	*****	*****	*****	*****	*****
Supplies	*****	*****	*****	*****	*****	*****
Equipment	*****	*****	*****	*****	*****	*****
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill has the potential to increase the difficulty of prosecuting criminal cases and to increase the number of defense motions, all of which could increase costs for the Department of Law.

First, the bill requires that arrests be made if a police officer hears a suspect make admissions. But immediate arrests are often not necessary to protect the public, and can cause legal problems for the prosecution. An arrest triggers certain time deadlines, which can result in the case being dismissed if, for example, a sexual assault victim is not prepared to testify in the grand jury within ten days. An arrest can make non-custodial interviews appear to be custodial, thus leading to more motions to suppress confessions. An arrest also means that an otherwise cooperative offender, who may wish to provide information about more culpable co-defendants, will be appointed an attorney and become less

Prepared by: Kathryn Daughhete, Director Phone: 465-3673
Division: Administrative Services Division Date/Time: 3/14/05 5:04 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date: 3/14/2005
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS CONTINUATION

cooperative, thus making prosecution of the co-defendants more difficult. Tape-recorded drug transactions often result in admissions, and an immediate arrest will make it more difficult to pursue the investigation to the source of the drugs, or to show the full extent of the seller's dealings, again making prosecution more difficult.

Second, the bill requires written investigative standards to be adopted by the Alaska Police Standards Council. If the Council adopts standards for investigations, those standards must necessarily cover every possible contingency. Yet not every case requires that level of detailed investigation. As a result, criminal defense attorneys at trial would be able to easily accuse the police of incomplete investigations, as a way of arguing that reasonable doubt exists. This line of cross-examination is not so easily established today, and could complicate prosecutions by shifting the focus of the trial from the defendant's conduct to whether or not the police followed every detailed investigative standard.

Because the bill could complicate criminal prosecutions, it may have a fiscal impact on the Department of Law, but at this time the extent of that impact cannot be determined.



Alaska State Legislature

Senator Con Bunde
Senate District P

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

Sponsor Statement for SB 134

"An Act relating to arrest; relating to investigation standards for police officers conducting criminal investigations and violations of those standards."

SB 134 charges the Alaska Police Standards Council with creating standards for sexual assault investigations and protocol. It also gives the council the power and responsibility to reprimand or even revoke an officer's certification based on a mishandled or negligent investigation. The bill also requires that when an officer is privy to an admission of guilt made by the suspect, an arrest must be made *at some point* during an investigation. There is no time requirement on the arrest, which allows an officer discretion in an investigation.

According to the Federal Bureau of Investigation (FBI) Uniform Crime Report (UCR), *Alaska has the highest per capita rate of reported rapes*. In 2003, our 600 reported rapes equaled a rate of 92.5 rapes per 100,000 inhabitants. Michigan, ranking as the second highest state, had 54.1 reported rapes per 100,000 inhabitants. To summarize, Alaska's per capita rape rate is nearly 71% greater than that of the next highest state.

However, Alaska's rate of arrest is almost *half* the national average. On a national average, 28 arrests are made for every 100 reported rapes. In Alaska, 17 arrests are made for every 100 reported rapes (2003 UCR). Nationwide, it is calculated that a sex offender will go to prison for only 6 out of every 100 sexual assaults — per capita, convictions in Alaska are most likely less common.

Across the U.S., states have charged task forces to create minimum standards and protocol for sexual assault investigations (Connecticut, Illinois, Kentucky, Michigan, Minnesota, New York, Oregon, Vermont and Texas). Some standards are regulation and some are suggestions for protocol. More frequently, individual police departments and municipalities will adopt standards that fit well with local circumstances and needs. While this may be an effective approach for many states, Alaska is unique.

Currently the Alaska Police Standards Council (APSC) serves to establish and enforce minimum standards for employment, training and retention of police officers. APSC also determines whether or not an officer should remain employed or be disciplined if he or she has been charged with a crime or inappropriate conduct. However, under current practices, crime victims and the public at large have no direct method to question the practices of police investigations or conduct. In larger municipalities, a victim may file a complaint; however, in most cases, all proceedings with the complaint are kept private within the police department and the victim has no formal recourse or resolution. In smaller, rural areas, there is no department in which to file the complaint. Often times, there are only one or two police and peace officers in the area. This truly leaves the victim without recourse. This bill provides crime victims a place to bring complaints regarding an officer's conduct and assures the public that officers are held accountable for criminal sexual assault investigations.

I urge your support of SB 134.

Forcible Rapes in Western States, 2003

State	Population	Forcible Rapes	Rapes per 100,000 Inhabitants
Alaska	648,818	600	92.5
New Mexico	1,874,614	937	50.0
Washington	6,131,445	2,864	46.7
Colorado	4,550,688	1,893	41.6
Nevada	2,241,154	874	39.0
Utah	2,351,467	892	37.9
Idaho	1,366,332	508	37.2
Oregon	3,559,596	1,218	34.2
Arizona	5,580,811	1,856	33.3
Hawaii	1,257,608	367	29.2
California	35,484,453	9,994	28.2
Montana	917,621	246	26.8

Source: Federal Bureau of Investigation, *Uniform Crime Report*, Table 5: "Crime in the United States, by State, 2003," available online at www.fbi.gov/ucr/03cius.htm

LEGISLATIVE RESEARCH REPORT

JANUARY 18, 2005



REPORT NUMBER 05.088

STANDARDIZATION OF SEXUAL ASSAULT INVESTIGATIONS

BY CHUCK BURNHAM, LEGISLATIVE ANALYST

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You asked about states' laws on investigating sexual assaults. Specifically, you asked that we determine if other states have codified investigation standards and procedures for sexual assaults. You asked that we focus our research on laws setting standards for determining which cases must be investigated.

Our research found no states' laws that universally codify policies for determining which sexual assault cases must be investigated. Although the sensitive nature of sexual assault investigations may appear to provide circumstances in which mandatory investigation policies make sense, the U.S. Department of Justice, Office of Victims of Crime (OCV), discourages standardization of such procedures across legal jurisdictions. Instead, the OCV advocates local promulgation of policies and procedures that take into account the needs of communities and the availability of law enforcement and resources for victims.

SEXUAL ASSAULT IN ALASKA

According to the Federal Bureau of Investigation (FBI), Uniform Crime Report (UCR), Alaska holds the grim distinction of having the highest per capita rate of rape reported to law enforcement agencies.¹ In 2003, the 600 reported rapes in the state represented a rate of 92.5 rapes per 100,000 inhabitants. By comparison, Michigan, the state with the second highest rate,

¹ The UCR contains statistics on crimes as reported to the FBI by more than 17,000 law enforcement agencies covering about 93% of the total U.S. population. The 2003 UCR can be found online at www.fbi.gov/ucr/ucr.htm.

had 54.1 rapes per 100,000 inhabitants. In other words, Alaska's per capita rate of rape is nearly 71% greater than that of the next highest state. Sadly, other forms of sexual assault in the state are represented by similarly frightening statistics.

The damage caused to victims and society by sexual assaults is compounded by the fact that arrests for such offenses are relatively rare. The 2003 UCR shows that about 28 arrests are made for every 100 forcible rapes reported to law enforcement agencies in the U.S.² The arrest rate in Alaska was even lower at approximately 17 arrests for every 100 forcible rapes reported.³ Using Bureau of Justice statistic, the victim's advocacy group, the Rape, Abuse & Incest National Network (RAINN), calculates that an offender will go to prison for only 6 out of every 100 sexual assaults nationwide. Simply put, in the U.S. it is relatively rare for perpetrators of sexual assault to spend time in jail—such convictions may be even less common in Alaska.

OTHER STATES' INVESTIGATORY PROCEDURES

Our research found no states' laws that universally codify policies for determining which sexual assault cases must be investigated. A number of states require police officers to inform victims of their rights and the resources available to them.⁴ Some states mandate that certain agencies receiving public funds report cases of sexual assault involving persons under their care. These laws are generally directed at vulnerable populations such as senior citizens, children, or disabled persons. Such laws, however, mandate reporting of sexual assaults rather than the actions that law enforcement agencies take to investigate such reports. Where they are in place, statewide standards of investigation are most often the policies of a state's primary law enforcement agency—state patrols, bureaus of investigation, troopers, or state police, for instance. Beyond these organizations, investigatory policies and procedures are largely promulgated at the county, municipal, or local level.

Understandably, standardization of investigatory procedures is, on its face, an appealing approach. This is particularly true in sexual assault cases where, as the U.S. Department of Justice, Office of Victims of Crime (OVC) states, "in the investigation and prosecution of most sexual assault cases, the role of the victim is much more important than in other crimes since the victim is usually the sole witness to the crime" and often has crucial forensic evidence on his or her body. Further, the OVC indicates that the approach of first responders to sexual assault victims can "significantly affect whether the victims begin the road to recovery or suffer years of trauma and anguish."⁵ As such, the OVC considers it critical that first responders, who are often law enforcement officers, approach victims in a sympathetic yet systematic manner. Nonetheless, the OVC encourages policymakers to use caution when considering mandating investigatory policies across legal jurisdictions, as indicated by the following statement.

² In 2003, 93,433 forcible rapes were reported, for which 26,350 arrests were made. According to advocacy groups such as the Rape, Abuse & Incest National Network (RAINN), typical rapists commit seven offenses prior to being arrested. As a result, it is likely that, in a significant proportion of arrests, the offender has committed a number of the assaults reported to police. The perpetrators arrested may, therefore, may account for a larger proportion of assaults than the "arrests per 100 reported rapes" figures appear to suggest.

³ In 2003, 600 forcible rapes were reported in Alaska for which 103 arrests were made.

⁴ See, for example, Arizona Revised Statutes §13-4401—13-4439, which outlines Crime Victims' Rights in the state.

⁵ U.S. Department of Justice, Office of Victims of Crime, "First Response to Victims of Crime, 2001," Section III, available online at www.ojp.usdoj.gov/ovc/publications/infoces/firstrep/2001/vicsexasit.html.

The United States has numerous police and prosecutorial jurisdictions. No one protocol can be developed that fits the needs of all these jurisdictions. It might be feasible to develop special sex crimes investigation units in large law enforcement agencies or in large metropolitan areas, but in small jurisdictions, this may not be feasible. Likewise, large metropolitan areas have many law enforcement agencies as well as major medical centers, rape crisis centers, and other victim service agencies. Small law enforcement agencies are often located in towns or rural jurisdictions that lack ready access to medical centers and to victim services. Large agencies often have victim advocates, but small agencies rarely do.

Thus, the major issues in developing a protocol in large metropolitan areas or in large law enforcement agencies are likely to be quite different than those in rural areas and in small agencies. Although victims' needs are the same and the elements of effective investigation and prosecution are the same irrespective of the jurisdiction, the protocol itself should reflect the circumstances within different jurisdictions.⁶

STANDARDIZATION OF INVESTIGATIONS AT THE LOCAL LEVEL: SEXUAL ASSAULT RESPONSE TEAMS

Over the past two decades, communities nationwide have increasingly standardized their approaches to both supporting survivors of sexual assault and investigating sex crimes through the use of Sexual Assault Response Teams (SARTs). A SART is usually comprised of at least one representative from law enforcement, a community-based victim's advocacy group, and a sexual assault nurse examiner (SANE), who is trained specifically to, among other things, collect forensic evidence of the crime.⁷ Members of the team strive to employ a "victim-centered" approach to assisting survivors and investigating the crime by meeting the needs of the victim while ensuring all investigatory processes are completed.

As evidence supporting the positive outcomes related to the use of SARTs for both assault survivors and law enforcement has mounted, the programs have rapidly expanded from just a few communities in the mid-1980s to over 300 programs by 1999. Because SARTs allow law enforcement, victim's advocates, and forensic nurses to closely coordinate their activities, victims are better supported and investigations are more thorough and precise. The net result, according to the OVC, is faster, more complete recovery from the trauma of the assault for the victim and higher rates of successful prosecution for law enforcement. The OVC actively promotes SART programs and expects their numbers to expand rapidly in the coming years as more communities recognize their effectiveness.⁸

⁶ U.S. Department of Justice, Office of Victims of Crime, "National Victim Assistance Academy: Foundations in Victimology and Victims' Rights and Services," Chapter 10, 2002; available online at www.ojp.usdoj.gov/ovc/assist/nvaa2002/welcome.html.

⁷ SART and SANE are often used interchangeably to describe victim-centered, community-based, programs for responding to sexual assaults. For the purposes of this report, we use the acronym SART.

⁸ Kristin Little, "Sexual Assault Nurse Examiner (SANE) Programs: Improving the Community Response to Sexual Assault Victims," U.S. Department of Justice, Office of Victims of Crime, OVC Bulletin, April 2001. We include a copy of this publication as Attachment A.

Statewide SART programs, while still relatively rare, are becoming more common. A number of states—New Jersey and Texas, for example—are developing SART programs through the offices of the states' attorneys general. In addition, a number of statewide law enforcement agencies are adopting standards that include SART programs. The Alaska State Troopers, for example, have promulgated protocols for implementing SARTs statewide.⁹ Without doubt, however, locally based SART programs are still the most common.

SEXUAL ASSAULT RESPONSE TEAMS IN ALASKA

The U.S. Department of Justice, Sexual Assault Resource Center, identifies thirteen SART programs in the state of Alaska.¹⁰ Although such programs have been shown to be effective, their implementation depends largely on the same limited pool of resources, particularly with regard to funding, as other public safety agencies and programs. The involvement of community-based advocacy groups may provide a portion of the resources necessary, but public dollars generally remain a primary funding mechanism.

LIMITED RESOURCES AND SARTS: THE ANCHORAGE POLICE DEPARTMENT

The SART program in the Anchorage Police Department (APD) clearly illustrates the challenges of limited resources. In October 2003, the Anchorage Police Department published a "60-Day Management Report," which discussed a number of departmental problems. Among the findings of the report was that the Department's Special Victim's Unit (SVU), which investigates sexual assaults in the municipality, reviewed 374 cases. According to the APD, when such cases are reported, the victim is brought to the SART center where a nurse examiner collects evidence and the SVU detective conducts an interview in the presence of a community-based victim's advocate. The APD indicates that the system is an excellent one. Nonetheless, because of staffing shortages, 124 of the cases reviewed by the SVU—about one-third—were not assigned for further investigation. Even at this level of investigation, the APD estimates that its SVU staff worked approximately 2,200 hours of combined overtime in 2003.

Not surprisingly, the result of fewer investigations is fewer arrests: in 2003, the APD made about 14.75 arrests for every 100 rapes reported compared to the national rate of about 28 arrest per 100 reported rapes.¹¹ It appears that implementing standardized investigation procedures on a widespread basis may require the identification of additional resources.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

⁹ We include a copy of the Alaska Department of Public Safety's statewide SART protocols as Attachment B. In addition, we include a statewide guide for developing SARTs from Kentucky and a SART standards guide from San Diego county, as Attachment C. We believe both of these publications are good examples of approaches to forming SARTs.

¹⁰ At least one SART program is currently in place in each of the following communities: Anchorage, Bethel, Dillingham, Fairbanks, Homer, Kodiak, Nome, Palmer, Sitka, Soldotna, Surrey, and Wasilla. It is unclear the degree to which each of these programs follows the Department of Public Safety's protocols or other SART models. We include a listing of these programs and contact information for each as Attachment D.

¹¹ We include a copy of relevant excerpts of the "APD 60-Day Management Report" and relevant crime statistics as Attachment E. Further crime statistics from the APD are available online at www.muni.org/apd1/stats.cfm.

Attachment B

Alaska Department of Public Safety, Alaska Statewide Protocols for Sexual
Assault Teams

ALASKA STATEWIDE PROTOCOLS FOR SEXUAL ASSAULT RESPONSE TEAMS

I. Purpose:

These protocols are designed to provide standardized structure for the development, training, and implementation of sexual assault response teams throughout the state of Alaska.

II. Introduction:

The Sexual Assault Response Team (SART) is a multi-disciplinary team developed to improve services to victims of sexual assault. The team is comprised of advocates from the local victim service center, law enforcement officers, and specially trained health care professionals. These team members provide a coordinated, efficient, and supportive response to victims. The benefit of the SART is the ability to provide a full range of comprehensive services to victims who have made the decision to report a sexual assault. This occurs by providing immediate crisis intervention, team interviews, forensic examination, and follow-up as needed. This coordinated response leads to a bond between the victim and the advocate, enables law enforcement to receive a foundation of facts regarding the case, and provides for forensic evidence for prosecution of the sexual offender.

SART teams are established to:

- A. Meet the immediate needs of the victim with crisis intervention and support services.
- B. Provide a joint, effective, sensitive approach to victims of sexual assault.
- C. Conduct an investigation of the crime.
- D. Document and preserve forensic evidence for prosecuting the perpetrator of the crime.

NOTE: Communities that will incorporate their child sexual abuse response protocols with their local sexual assault response team should reference the Alaska Interdepartmental Child Abuse Agreement. This document is available from: The Alaska Children's Cabinet, P.O. Box 112100, Juneau, AK, 99811; phone 907-465-4870, fax 907-465-8638.

III. Steering Committee:

The purpose of the steering committee is to create a structure that provides for initial and ongoing management of the response team. This serves as the structure for addressing any concerns that may arise as the SART progresses. Each SART should have a steering committee comprised of a representative of the following disciplines: local victim advocacy, law enforcement, and health care. The steering committee should develop a method of quality control that may include team meetings or some other problem-solving process. Membership of this group should also include all law enforcement entities in the area, a representative of the District Attorney's office, and others from the community that work as members of a coordinated response to sexual assault cases.

IV. Team Structure:

A. Members

Protocols must clearly identify members of the response team. Members should include:

1. A victim advocate
2. A law enforcement officer
3. A health care professional

B. Roles of Team Members:

1. Advocate:

Advocates provide support to the victim, answer any questions the victim may have, and inform the victim of the process for the interview and examination. The advocate does not participate in the gathering of evidence, fact-finding, or the investigation of the assault. Rather, their focus is placed on insuring that the victim is supported throughout the process. As advocates often provide individual and group support for months and sometimes years to come, the initial bond that develops between advocate and victim is critical. Advocates do not provide an opinion on the merits of the case or participate in conducting the interview, and generally will not testify in court.

2. Law Enforcement:

Law enforcement's role is to investigate and report the facts of the case. Law enforcement will be responsible for the immediate safety needs of the victim; interviewing the victim; investigation of the crime; identifying, arresting, and/or referring charges on the suspect; arranging for forensic examination of the suspect when necessary, writing a report, participating in court proceedings, and all other duties normally associated with investigative and law enforcement functions.

3. Health Care Professional:

The health care professional's role is to provide the health care component of the SART. They perform the physical assessment of the sexual assault victim; collect, document, and preserve forensic evidence; provide information and referral to the victim on health care matters; document the examination in the medical record; and present expert testimony in court.

V. Training Recommendations:

Cross training of the roles and responsibilities of each team component is strongly recommended in order to maintain the multi-disciplinary approach and insure its success. This shall include:

A. Advocate training includes:

1. An overview of the forensic interview, law enforcement investigation, forensic examination, and the legal process as related to sexual assault
2. Observation of a sexual assault trial

3. Supporting preceptorship needs of other team members

B. Law Enforcement training includes:

1. An overview of the forensic examination and victim advocacy process.
2. Sexual assault investigation
3. Interviewing techniques
4. Supporting preceptorship needs of other team members

C. Health Care Professional training includes:

1. The minimum requirements as recommended by the Forensic Nursing Association of Alaska Standards of Practice.
2. Supporting preceptorship needs of other team members.

VI. Overall Structure:

This section of the protocol should include:

A. Facility Location:

1. Identify facility that will be used for the forensic examination and interviews
2. Specifications regarding physical layout of the designated area to insure:
 - a) Treatment priority given to victim
 - b) Privacy for victim
 - c) Safety of victim
3. Identify the contact person at the facility
4. Clear procedures for initiating and implementing call-out response
5. Insure location maintains all necessary supplies for the examination

B. Health Care Professionals

1. Completed didactic training and preceptorship for health care professional prior to performing examinations as the primary health care professional
2. Documentation of valid medical/nursing license in the state of Alaska

C. Law Enforcement

1. Identify law enforcement entity that will be responsible for each location
2. Identify the contact person at law enforcement agency
3. The officer will, when possible, complete training as outlined in protocols prior to responding to a SART call

D. Victim Advocacy

1. Identify the contact person at the victim advocacy agency
2. The advocate will, when possible, complete training as outlined in protocols prior to responding to a SART call

E. Debriefing

1. It is strongly recommended that team members develop a process for debriefing each case.

VII. Service Availability

Identify service parameters, which should include:

- A. Hours of operation
- B. Contact person for each of the service areas
- C. Procedures for outlying areas to access the team
- D. Ages served
- E. Military or other regional considerations
- F. Geographic areas
- G. Procedures for examinations of victims
 - 1. To be provided by a health care professional
 - 2. Timeline
 - 3. Chain of evidence
 - 4. Standing orders
- H. Procedures for examinations for perpetrators:
 - 1. To be provided by law enforcement or health care professional
 - 2. Location of perpetrator examination
 - 3. Chain of evidence

VIII. Call-Out Procedures:

Procedures must be created to insure a smooth and effective call-out response. The procedures must:

- A. Clearly identify procedure for activating a response
- B. Identify contact person for each component of SART
- C. Identify appropriate timeline for call-out response

IX. Forensic Examination Consent Form:

This section of the protocols must address:

- A. Consent for examination, evidence, and photographic evidence release
- B. Consent for communication between team members
- C. Consent forms must clearly define waiver of privacy

X. Interview Process:

Guidelines should address the following:

- A. That medical priorities, victim needs, and safety considerations take precedence over the forensic interview and forensic examination
- B. That all efforts have been made to have all team members are present for the interview
- C. That whenever possible, the victim should be given the opportunity to speak with a victim advocate prior to the start of the interview, to explain:
 - 1. The victim's rights regarding the interview and examination
 - 2. The process and structure of the interview and the examination
 - 3. The process of any audio/video taping that will occur

XI. Payment of Services:

This section of the protocols should include:

- A. Procedure to ensure that victims will not be charged for forensic examinations either directly or through insurance billing
- B. Procedure for covering costs of injuries or medical needs other than those of the forensic examination.

XII. Violent Crimes Compensation:

This section of the protocols should include the following:

- A. That law enforcement is to provide notice of Violent Crimes Compensation
- B. That the advocate can provide assistance in completing forms, and provide contact numbers and referrals for additional information

XIII. Examination:

This section of the protocols must include:

- A. Specific procedures outlining the steps for forensic examination
- B. Procedures for follow-up care and referral
- C. Standing orders

XIV. Confidentiality:

This section of the protocols should address the following:

- A. That forensic examination records will be maintained in a separate and secure location
- B. A procedure for processing subpoenas, search warrants, and court orders
- C. Disclosure of the information that is required by law

NOTE: Advocates are generally excluded from disclosing information.

XV. Chain of evidence:

This section of the protocols must include:

- A. Procedure for forensic examiners and law enforcement to insure chain of evidence is maintained.

XVI. Timeline for Examinations

This section of the should address the following:

- A. It is strongly recommended that the forensic exam be completed as soon as possible.
- B. Suitability for a forensic examination should be decided on a case by case basis.



Assessing Justice System Response to Violence Against Women : A Tool for Law Enforcement, Prosecution and the Courts to Use in Developing Effective Responses

Kristin Littel, M.A.

Mary B. Malefyt, J.D.

Alexandra Walker

Sarah M. Buel, J.D.

Deborah D. Tucker, M.P.A.

Editor: Joan A. Kuriansky, J.D., M.A.

Project Coordinator: Kristin Littel, M.A.

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Notes

A product of the *Promising Practices Initiative* of the STOP Violence Against Women Grants Technical Assistance Project.

The goal of the Technical Assistance Project is to strengthen the criminal justice system's response to victims of sexual assault, domestic violence and stalking. The project is a collaboration of the Battered Women's Justice Project and the National Resource Center on Domestic Violence, a project of the

Pennsylvania Coalition Against Domestic Violence.

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Introduction

For many of us, the adage, "there is no place like home" conjures up images of warm, comfortable, family scenes. For millions of women in the United States, however, this phrase has a very different meaning. For these women, home is a place of intimidation, fear, and violence. **Domestic violence continues to be the leading cause of injury to women. In fact, women are at greatest risk of becoming a victim of violent crime in their own homes.** The violence is not just debilitating -- the injuries can be deadly. *According to the 1995 FBI's Uniform Crime Reporting system (URC), 26 percent of female homicides are perpetrated by husbands, ex-husbands, or boyfriends (for those cases in which the victim-offender relationship is known).*

Even if she is free of physical or sexual abuse in an intimate relationship, a woman faces the risk of being sexually assaulted by an acquaintance or stranger. **Sexual assault is acknowledged to be the most under-reported violent crime on which national statistics are kept.** Even so, *the redesigned 1992-1993 National Crime Victimization Survey (NCVS) estimated approximately 500,000 women are the victims of some form of rape or sexual assault each year. In 75 percent of the cases, the victim knows the offender.*

Stalking is another violent crime that plagues many women. Only recently has the justice system and the public recognized stalking as a distinct and serious crime, rather than an antecedent to other crimes. Beyond highly publicized cases involving celebrities and political leaders, there is still little understanding of stalking as a crime, and few people acknowledge it as one that affects "ordinary" people. **In contrast to these highly publicized cases, the majority of stalkers know their victims, and much stalking occurs within the context of domestic violence, particularly when victims try to leave their batterers.** *A survey, jointly sponsored by the National Institute of Justice and the Centers for Disease Control and Prevention, concluded that one out of every twelve American women has been stalked sometime during her life.*

Perpetrators of domestic violence, sexual assault and stalking discriminate against no one. Women of all ages, races, cultural and social backgrounds are victims of these violent crimes. The impact of these crimes extends to families, the workplace, and all of our communities.

Over the last two decades, dramatic changes have occurred in the public response to violence against women. Prior to the mid-1980's, the failure of the justice system to take these crimes seriously reinforced the escalating, recurring and often lethal nature of domestic violence and stalking. In this regard, the law - and those responsible for upholding the law - reflected society's tolerance of intimate violence, its prejudices against victims of violence against women, and its ignorance of the complexities of the issues implicit in these crimes.

In the mid-1970's, survivors and advocates gave voice to women who had previously been silent. The battered women's and anti-rape movements demanded additional legal protections and a full range of services for victims. By the late 1970's, a limited number of jurisdictions had initiated legal reforms. Some states passed new civil and criminal laws giving greater protection to victims and enforcing penalties on perpetrators. Criminal justice agencies, some funded under the Law Enforcement Assistance Agency ("LEAA") Family Violence Program, trained personnel, developed innovative policies, and modified jobs to comply with the new laws.

As research began to document the relationship between violence at home and violence in our society as a whole, the criminal justice system looked for ways to stop violence against women. Ongoing advocacy by women's agencies representing battered women and sexual assault victims helped communities understand an effective response required systematic and coordinated change, involving both justice agencies and community providers.

While an increasing number of jurisdictions have undertaken initiatives in recent years to respond to sexual assault and domestic violence, the efforts are sporadic. Laws protecting victims and holding offenders accountable vary, limited numbers of criminal justice personnel are trained to enforce the law, and only some communities have embraced a coordinated response to reduce violence against women with clear strategies for intervention.

The Violence Against Women Act

In 1994, Congress passed and President Clinton signed the landmark Violence Against Women Act (VAWA) to enhance the ability of States and Territories (hereinafter "States") to respond to violence against women. The legislation was designed to begin to close existing gaps and commit the Federal Government to an aggressive response to this epidemic. The VAWA creates new Federal laws, expands existing programs and establishes several new grant programs.

One of the grant programs was established as a formula grant program, designated STOP (Services, Training, Officers, and Prosecutors). The STOP program is administered by the Violence Against Women Grants Office (VAWGO), Office of Justice Programs (OJP), U.S. Department of Justice. These grants "assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violence against women, and to develop and strengthen victim services in cases involving violent crimes against women."

The VAWA defines violence against women as sexual assault, stalking, and domestic violence. It outlines seven specific purpose areas that can be funded with STOP dollars. It also requires states to allocate funds in 25 percent allotments in at least three categories (victim services, law enforcement and prosecution).

Understanding the importance of building a coordinated community response, the Act mandates each State develop a plan to implement the STOP program. The VAWA recognizes the key role community-based advocates have and must continue to play in developing effective strategies to stop violence against women. The Act stipulates each State must "consult and coordinate with nonprofit, non-governmental victim service programs, including sexual assault and domestic violence victim services programs."

The Promising Practices Initiative

In 1997, VAWGO, in cooperation with the STOP Violence Against Women Grants Technical

Assistance Project (STOP T.A. Project), launched an initiative to identify and develop promising practices. This initiative is geared to help communities respond to the challenge of stopping violence against women. Thus far, expert panels have been convened to identify key issues and practices, a national survey of hundreds of practitioners was conducted, names and descriptions of over five hundred programs have been submitted, and in-depth interviews have been conducted.

In the spring of 1998, VAWGO will publish a comprehensive manual to help states and their sub-grantees draw on the most promising practices in their fields as they undertake implementation of the VAWA.

The manual will contain chapters on victim safety planning and practices responding to violence against women from the perspective of law enforcement, prosecution, the courts, and victim services. It will also offer a chapter on practices aimed at building coordinated responses to violence against women. Practice descriptions will identify a problem, explain how the practice addresses the problem, briefly describe the components that make the practice work, and propose an action plan to put the practice in place. The descriptions will highlight the barriers under-served populations confront when using the justice system and offer strategies to overcome these barriers.

Practices or specific elements of a practice will be illustrated by program examples. These programs will attest to the usefulness of the practices in saving lives, reducing violence, promoting victim recovery, and holding offenders accountable for their crimes.

In anticipation of the publication of the first volume, VAWGO is releasing the following assessment tool for jurisdictions to use in developing effective responses by law enforcement, prosecution, and the courts. The response checklists are not intended to be exhaustive; rather, they highlight some of the key elements of practices that will be fully explored in the manual.

Interspersed throughout the checklists are boxes defining the principles that undergird and enhance all of the proposed practices. The principles speak to the underlying values that should direct the design and implementation of any strategy to improve a community's response to victims of domestic violence, sexual assault and stalking. The values include: promoting the safety of women and their families; providing assistance to women to regain control and autonomy in their lives; and holding offenders accountable. These guiding principles of practice will form the foundation of the manual and are woven into the elements of the response checklists.

The checklists are accompanied by selected programs that have successfully incorporated some of the elements of the responses, often utilizing innovative, and potentially replicable strategies. The STOP T.A. Project office has copies of materials that are referred to in the program descriptions and will make them available upon request.

An additional section on the civil justice system response to domestic violence is also included, highlighting on legal representation programs for battered women and law school initiatives.

Readers who wish to comment on the checklists or recommend other practices or programs are encouraged to contact the STOP T.A. Project. Their office can be reached by phone (800-256-5883 or 202-265-0967 in the District of Columbia metropolitan area), fax (202-265-0579), or e-mail (STOPGrants_TA_Projects@csgi.com).

Unique Nature of Violent Crimes Against Women

The majority of violent crimes against women are committed against intimate or known partners. These non-stranger crimes differ significantly from stranger assaults in that the violence perpetrated against the same victim often continues and escalates over time.

In all instances of criminal behavior, the justice system seeks to apprehend and sanction the offender. In domestic violence related cases, the justice system must also take steps to prevent further abuse to the known victim, protect that victim, and connect her with community services which enhance her safety and well-being. The intervention by the justice system may be ongoing and change over time.

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Agency Response Checklists and Program Examples

The following checklists describe the basic roles of law enforcement, prosecution and the courts in responding to violence against women. They also show where agencies coordinate and collaborate with other justice system agencies and community-based advocacy programs.

Review the following lists, checking off responses your jurisdiction performs with success. Make note of gaps in your current response to violence against women.

Also review the selected programs, which illustrate elements of agency responses and often utilize innovative and replicable strategies.

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Interventions Grounded in an Understanding of Violence Against Women

Justice system personnel and community-based victim service providers can work together to develop and espouse shared beliefs about violence against women to guide policies and interventions. Shared beliefs should include:

1. Violence against women is a serious crime, requiring the justice system and community's attention.
2. No form of violence against women is acceptable behavior. Justice personnel must debunk the myths that overtly and covertly support violence against women, and replace them with facts about these crimes, the perpetrators and the victims.
3. Victim safety and welfare, as well as the safety of her children and other family members, is the paramount goal of justice system intervention.
4. Early intervention in violence against women cases, coupled with meaningful penalties and sanctions for offenders, can save lives and prevent further violence.
5. Responding to battered, sexually assaulted and stalked women from traditionally under-served populations requires multi-cultural services and multi-lingual capacity. Jurisdictions must strive to understand the unique problems faced by these victims and work with them to identify solutions.
6. Batterers, sex offenders and stalkers use violence to achieve and maintain control over their

victims.

7. Victims are not responsible for their perpetrator's violent and controlling acts, nor do they have the power to change the perpetrator's attitudes or behavior.
8. Victims are in the best position to judge the danger the perpetrator poses to them and to make their own decisions about their safety. Practitioners have the responsibility to assist victims in this decision-making process by providing information about their options and available community resources.
9. The justice system must recognize the high risk of danger battered women and their families face when the decision is made to leave an abusive relationship. In many instances, domestic violence victims stay in the abusive relationship. The victim must be supported in her decisions, whether or not she decides to participate in the justice system.

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Law Enforcement Response to Violence Against Women

Law enforcement represents the entry point to the criminal justice system for a substantial number of victims and perpetrators. Agency training, policies and protocols can support consistent and effective police intervention in both misdemeanor and felony offenses, while connecting victims with community services and support.

Proactive and aggressive police response can deter further violence and ultimately save lives. Increasingly, law enforcement agencies are promoting early intervention in domestic violence and stalking cases to protect victims before more injuries occur. Officers are being trained to thoroughly investigate sexual assault cases, while being sensitive to the vulnerabilities of victims. Timely and responsive law enforcement intervention can increase victim safety, enhance investigations, and facilitate successful prosecution.

The following checklist describes the basic role of law enforcement in responding to violence against women. It also shows where law enforcement agencies coordinate and collaborate with other justice system agencies and community-based advocacy programs.

Review the following list, checking off responses your agency performs with success.

Make note of gaps in your current response to violence against women.

Law enforcement intervention includes the following elements:

- Dispatcher Response
- Initial Officer Response
- Follow-up Investigator Response
- Supervisor Response
- Data Collection and Communication
- Management Response

Dispatcher Response

Address victim safety:

- Determine the facts and whether the victim is in danger or in need of emergency medical attention.
- If the victim is in danger or needs emergency medical attention, provide her with crisis intervention services and dispatch an ambulance, if necessary.
- Identify the crime as violence against women and give priority rating.
- Obtain information from the victim: name, address and phone, suspect's use of weapons, and whether the suspect is present (if not present, obtain description of the suspect).
- Promptly dispatch a patrol officer and backup unit, as necessary.
- Keep the victim on the phone until the responding officer arrives.
- Remind the sexual assault victim not to bathe or change her clothes.
- Record the victim's excited utterances.

Obtain offender history and information on the likelihood of danger:

- Use the agency database to provide the officer with any available criminal and civil history on the suspect.
- Furnish the officer with information on offender dangerousness and specifics about the incident.

Initial Officer Response

Secure the crime scene:

- Respond to the dispatch call in a timely manner, whether it is an immediate or a delayed report.
- Evaluate the potential for violence and secure backup, if possible.
- Take precautions to ensure officer safety.
- Examine the area (e.g., listen for whether noises can be heard from within the residence, observe if lights are on in the residence or if windows are open, and look for evidence of children and the location of car).
- Enter the premises in compliance with the laws of the state.
- Immediately stop the violence and separate parties.
- Determine if children are present. Assess and respond to their immediate needs.
- Evaluate the scene (e.g., damage, alcohol/drug use, emergency mental health issues, or presence of other witnesses).
- Record the victim and the suspect's locations upon arrival.

___ If denied access to the premises and forced entry is not appropriate, return to the scene on a frequent basis to observe any activity in open view.

Address victim safety and provide assistance at the crime scene. The following steps should be taken whether or not an arrest is made:

___ Assure the victim her safety is the priority.

___ Inquire into the victim's need for emergency medical attention and provide first aid, if needed.

___ Provide the victim with information on her rights, referrals to justice system agencies and community-based organizations, and assist with her immediate needs.

___ Ask questions in a supportive and matter-of-fact tone of voice. Be calm, direct and patient. Be clear you want to help her.

___ Let the victim know what her involvement in the investigative and court process entails.

___ Notify the local domestic violence or sexual assault program to provide the victim with immediate assistance at the crime scene or elsewhere.

___ If appropriate, encourage the victim to undergo a forensic medical exam and seek medical treatment.

___ Explain to the victim the importance of evidence collection and medical treatment. Inform her the cost of forensic examination is not her responsibility.

___ Arrange transportation to the designated medical facility for medical care and/or forensic exam, if necessary.

Investigate at the crime scene:

Interviewing the victim :

___ Conduct the victim interview in a private setting, away from the suspect and, if possible, other family members.

___ In the case of a sexual assault, or if there is need for emergency medical attention, conduct the interview after the victim has been treated (most likely at the medical facility).

___ Obtain preliminary information from the victim about the crime and specifics leading up to the abuse, whether there is a relationship between the victim and suspect, prior history of abuse, any court orders, use of weapons, or use of alcohol/drugs.

___ Record the victim's excited utterances and her emotional and physical condition.

___ Note her demeanor, body language and other nonverbal communication.

___ Document the victim's injuries and inquire about injuries that are not visible.

___ Obtain temporary addresses/phone information from the victim.

Identify and interview witnesses

___ Identify witnesses and their relationship to the victim or the suspect (e.g., children or neighbors).

___ Note the witnesses' demeanor and collect written statements.

___ Interview children in a manner appropriate to their age, away from the suspect and the victim. Document any excited utterances, signs, injuries, or healing of abuse wounds.

Interview the suspect, if present :

___ Obtain rough preliminary information from the suspect (let him talk).

___ Record the suspect's excited utterances, his emotional and physical condition, and demeanor.

___ Note the suspect's injuries in detail.

___ Note any evidence of substance/chemical abuse.

Make an arrest decision:

___ Arrest the suspect if probable cause exists.

___ Where necessary, make a determination of who is the primary aggressor, considering a number of factors (e.g., relative size of the parties, history of abuse, likelihood of future injuries to either parties, and actions taken in self-defense).

___ Charge the suspect with all crimes arising from the incident.

___ Decide to arrest solely on state law, and not on other factors (e.g., speculation the victim will not go forward, the arrest may not lead to conviction, or the race, culture, sexual orientation, class, or profession of either party).

___ Arrange for the suspect's transport to a medical facility to collect physical evidence, if necessary.

___ If the suspect is not present, obtain descriptive information (e.g., his possible whereabouts, the time he left, his vehicle color, type, and license). Broadcast the information to locate and apprehend the suspect.

___ If the suspect is found, attempt to interview. If he cannot be found, apply for a warrant.

___ File a full report even in the case of no arrest, explaining the circumstances.

___ Explain to the victim the reasons for not arresting the suspect. Let both parties know the police take seriously crimes of violence against women.

Collect evidence at the crime scene:

___ Assess the crime scene for physical evidence (e.g. fingerprints, body fluids, footprints, and/ or disrupted objects).

___ Photograph and/or videotape the crime scene prior to touching, moving or disrupting potential evidence. Provide an indication of size or scale.

___ Conduct a nondestructive search for all physical evidence at the crime scene.

___ Collect, properly package and mark all evidence. Ensure all evidence is gathered before releasing the crime scene.

___ Diagram the crime scene and document findings.

___ Photograph the victim's injuries and alert her that subsequent bruising should also be photographed.

___ Photograph the suspect's injuries and take full body photographs.

___ Photograph children's injuries and demeanor.

___ Impound all weapons used.

___ Seize and ensure the 911 tape is preserved.

___ Transport items requiring analysis to the proper crime lab. Store the remaining items in a secure storage area to properly maintain chain of custody.

Facilitate the Forensic Evidence Collection Process:

___ Transport or arrange transportation for the victim to a designated medical facility for emergency care and/or forensic evidence collection, if appropriate.

___ Make sure the victim is seen promptly at the medical facility.

___ Make sure the victim has the support of a victim advocate, if desired.

___ Confirm that the attending nurse or physician has a standardized evidence collection kit.

___ Provide the attending nurse or physician with a brief account of incident.

___ Photograph the victim's injuries or arrange for same-sex medical personnel to do so.

___ Ensure all necessary physical evidence collection procedures are completed.

___ Confer with assisting medical personnel to obtain further information.

___ Request that the victim to sign a release of medical information form.

___ Make sure physical evidence is collected from the suspect, if in custody (in a different location from the victim). The consent of the suspect, a search warrant, or a court order is required to collect physical

evidence from the suspect. For suspect examination, brief medical personnel performing the exam. Provide general details of incident to help guide their collection of evidence.

___ Make arrangement to deliver evidence needing analysis to a designated crime lab, and/or store other evidence in a way that maintains the chain of custody.

Write an incident report:

___ Complete a written report, whether or not an arrest is made. If an arrest was not made, explain why.

___ Include diagrams of all injuries, reports of injuries that are not visible, as well as information noted above.

___ Report on previous incidents known to the officer or reported by the victim or other witnesses.

___ Provide the follow-up investigator with all related reports and documentation, access to stored crime scene evidence, and lab findings from the forensic evidence.

Follow-up Investigator Response

Address victim safety and support needs:

___ Stay in contact with the victim, obtaining information and updating case status.

___ On each contact, assess the likelihood of continued violence by the suspect to the victim and her family.

___ Assist the victim with safety planning. Revise police response as needed to offer optimal protection.

___ Work closely with a community-based advocate to support the victim through interviews and other investigation procedures.

___ Encourage the victim to call the police if the suspect violates any existing court orders.

Gather further information to support charges:

___ Consult with the responding officer (if different) and any officers who collected evidence.

___ Develop an investigative strategy.

___ Arrange for a subsequent interview with the victim if she was unable to proceed with a detailed interview following the incident, or if additional or clarifying information is needed.

___ Re-photograph the victim to document changes in the appearances of the injuries.

___ Encourage the victim to contact the investigator with any new information or evidence.

___ Provide the victim guidance, forms and assistance in documenting the suspect's actions, if appropriate (e.g., to establish a pattern in stalking cases).

___ Obtain statements from any witnesses not interviewed at the scene, identify additional witnesses (including "outcry" witnesses), and collect all pertinent information.

___ Ensure all evidence has been identified, collected, properly stored, and processed from the crime scene, the victim, children that were present, and the suspect.

___ Maintain contact with the crime lab to obtain results, and determine and respond to evidentiary issues.

___ Obtain further information on the suspect's criminal/civil histories and other relevant background.

Identify and apprehend the suspect, if not already arrested:

___ If the suspect was not at the crime scene and his identity is unknown, determine the most likely suspects. Obtain the victim's assistance in making a positive identification. Question the suspect once he is apprehended, using the appropriate investigative strategy.

___ If the suspect is known, attempt to find and interview him, if possible. Also consider other ways to initially contact/warn the suspect, if appropriate (e.g., send him a letter of warning in select stalking cases).

___ Arrest the suspect when probable cause is established.

Deliver the case to the prosecution office:

___ Discuss the case with the prosecution office and secure additional evidence as necessary.

___ Complete necessary reports and forms, and transfer information to the prosecutor's office.

___ Testify as requested throughout court hearings.

Develop a Victim-Centered Approach to Services and Programs

1. Make victim safety the top priority.
2. Respect the integrity and autonomy of each victim.
3. Maintain and protect victim confidentiality.
4. Regard survivor feedback as critical to improved justice response.

Supervisor Response:

___ Oversee officer compliance with agency policies and procedures related to violence against women.

___ Oversee officer compliance with inter-agency agreements related to violence against women.

___ Create forms and incentives to facilitate compliance with agency policies.

___ Problem-solve with officers on complex cases.

___ Assess whether police response meets goals of victim safety and offender accountability.

___ Determine the need for additional officer training or supervision.

Data Collection and Communications:

___ Designate and retrieve all case information.

___ Automate case loads to expedite access to information.

___ Track cases from first call forward, including case substantiation and follow through.

___ Integrate criminal and civil history of offenders into agency database.

Management Response:

Set tone through the development of protocols, practices, training and other mechanisms:

___ Establish protocols and practices grounded in an understanding of violence against women and embody values such as victim safety and confidentiality, respect for the autonomy of victims, and offender accountability.

___ Develop police procedures for handling violence against women committed by law enforcement and other justice system personnel.

___ Promote proactive intervention in all violence against women cases.

___ Allocate funds, resources and personnel to violence against women cases

___ Support ongoing violence against women training for all new and veteran staff.

___ Build a staff that reflects the demographics of the community it serves.

___ Develop strategies to remove barriers facing under-served populations which prevent them from using the criminal justice system (e.g., translation of materials into relevant languages and 24-hour access to translation and interpreter services).

___ Develop a system to monitor policy compliance.

___ Revise policies and practices, as necessary.

Provide leadership in community initiatives to combat violence against women:

___ Ensure coordinated response and collaboration with other justice agencies and other relevant service providers. Develop inter-agency agreements as appropriate.

___ Participate in community task forces or other structures that respond to violence against women.

___ Recognize and support community-based advocacy programs as primary victim service providers.

___ Promote community education and zero tolerance for violence against women.

Home News Speeches Photos Bio First Lady TV Email the Governor

Governor Murkowski

Boards & Commissions

State of Alaska - Governor > Boards and Commissions

Police Standards Council

Board: Alaska Police Standards Council

Board identification number: 081

Department: Department of Public Safety

Authority: AS 18.65.140

Status: Active

Sunset date:

Requirements: No Legislative Confirmation or Financial Disclosure required

Prohibitions: None

Term: 4 years

Description: 11 members: 9 appointed by the Governor, 4 public (at least 2 from communities with 2,500 population or less), 4 chief administrative officers or chiefs of police, one correctional administrative officer, plus the Commissioners of the Dept. of Public Safety and the Dept. of Corrections or their designees. Council selects chair.

Function: Establishes and enforces minimum standards for employment, training and retention of police, corrections, probation and parole officers; adopts regulations; conducts administrative hearings.

Chair: Board selects

Special facts:

Compensation: Standard Travel and Per Diem. No additional compensation.

Meetings: At least twice a year, normally 4 times per year, 8 days maximum.

For further information contact:

James Meehan

Acting Director

Alaska Police Standards Council

CPS, P.O. Box 111200 MS 1200

Juneau, AK 99811-1200

Phone (907) 269-7408 FAX (907) 269-7333

[Police Standards Council Roster](#)

[Go to the Police Standards Council Home page](#)



The governor holds the state operating budget, the assembled representatives of public officials and public some of the vetoed from the bill Wednesday.



The governor signs the Knik Arm Bridge Authority, flanked by legislation sponsor Cowdery, Anchorage Wuerch, former Governor of Anchorage director.

More Hot Topics...

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We appreciate your interest in boards and commissions. For further information contact the boards and commissions staff at (907) 465-3500 or at B&C@gov.state.ak.us.

[View Oceans Report](#)

Email Governor Frank H. Murkowski, mail or call

Office of the Governor, Box 110001, Juneau, AK 99811, 907 465 3500, 465 3532 fax

Sexual Assault Investigation Protocol

Det. Sgt. Dave Parker

DRAFT
-1/25/05

Intake Phase

- Report Received:

- Dispatch Generated Report
- Advocacy Generated Report
- Office of Children's Services Generated Report
- School District Generated Report
- Officer/Detective Generated Report

- SART Triage Decision - Decision made by Supervisor of Special Victims Unit. All questions must be answered positively to proceed with the exam:

Did the sexual assault occur within the last 96 hours?

Was there penetration, the possibility of fluid evidence transfer and/or the possibility of documentable oral, genital or anal injuries?

Is the victim willing to cooperate with the SART interview and examination as well as the investigation?

- Case Detective Assigned
If case is to be actively worked.

Post-It Fax Note	7671	Date	2/25/05	# of pages	3
To	Lowrey Wickersham	From	APD		
Co./Dept.	San Rinde's	Co.			
Phone #		Phone #			
Fax #	907-465-3871	Fax #	(907) 756-8638		

Evidence Gathering Phase

- SART Interview and examination

Interview conducted in the presence of an advocate, SANE nurse by the case detective.

Examination conducted by SANE nurse in presence of advocate with the patient's permission.

SART process completed with discharge instructions by SANE nurse, final detail clarification and investigation plan by detective all in the presence of the advocate.

- Suspect evidence collection.

If suspect is known to the victim:

Decision must be made as to whether a "Glass" wire or an immediate in-custody interview and search warrant authorized suspect protocol kit will yield the most evidence.

If suspect is unknown to the victim, in custody or alerted to police

Investigation:

Immediate in-custody interview and search warrant authorized suspect protocol kit.

- Scene evidence collection.

Decision must be made as to whether the scene can be effectively processed by Patrol, if detective assistance is needed, or if the Major Crime Scene Team needs to process the scene.

Scenes are searched by authority of written consent to search if it is the victim's residence/vehicle and by authority of search warrant if it is the suspect's or other person's residence/vehicle. No warrant is necessary for scenes which are on public land or premises open to public.

Investigation Phase

- Obtain and serve "Glass" warrants

Decision must be made as to whether warrants will be served telephonically or face-to-face. Selection of time of service and place of service are considered.

- Additional physical evidence is identified and secured.

This is done by authority of search warrant if necessary.

- Arrange processing of Sex Assault Protocol Kits and other evidence seized at State Crime Lab.

- Witnesses are questioned.

If they are expected to be hostile, they can be questioned by authority of "Glass" warrant by victim or acquaintance prior to police contact.

- Suspect contacted and interviewed/interrogated.

Prosecution Phase

- Arrest:

If arrest is made on Probable Cause:

Case is compiled and presented along with Statement of Probable Cause is made to District Attorney immediately.

If arrest is made by Arrest Warrant:

Arrest Warrant is prepared, presented to the Court and placed into APSIN and/or served. Case is compiled and presented along with Arrest Warrant to District Attorney immediately.

If District Attorney is consulted prior to arrest decision:

Case is compiled and presented to District Attorney for review. District Attorney will prepare Charging Document for detective to present to the Court along with Arrest Warrant.

- Grand Jury hearing is arranged by the District Attorney.

Detective assists the District Attorney in locating and serving subpoenas to victim, witnesses.

Detective testifies in Grand Jury.

True Bill is issued by Grand Jury.

- Pretrial:

Case Detective works with District Attorney to address Defense motions.

Case Detective attends all hearings.

Case Detective provides District Attorney with all discovery requests.

Case Detective organizes and displays all evidence for District Attorney and Defense Attorney review.

- Trial:

Case Detective assists District Attorney through all phases of the trial.

SB

152



Official Business

ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER

- Chair, Senate Resources Committee
- Vice-Chair, Senate State Affairs Committee
- Member, Community & Regional Affairs
- Member, Legislative Council
- Member, World Trade

Session: January - May
State Capitol, #427
Juneau, AK 99801
Phone: 907-465-2828 Fax: 907-465-4779

Interim: May - December
145 Main Street Loop; Suite 226
Kenai, AK 99611
Phone: 907-283-7996 Fax 907--283-8127

March 24, 2005

MEMORANDUM

To: Senator Gene Therriault, Chair
Senate State Affairs Committee

From: Senator Tom Wagoner

Subject: SB 152 - APPROP: COST-OF-LIVING SURVEY

I would like to request a hearing for SB 152 in the Senate State Affairs Committee at your earliest convenience.

The Cost of Living Survey in AS 39.27.030 is supposed to be updated at least every five years, but the most recent one done is 1983. The reason for this stretch of time since the last survey is lack of funding. SB 152 would provide the funds necessary to conduct this survey.

If you should have any questions on this, please contact Amy Seitz, x3421.

Thank you.



Official Business

ALASKA STATE LEGISLATURE

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Phone: 907-283-7996 Fax 907--283-8127

Sponsor Statement Senate Bill 152

AS 39.27.030 states that a cost of living survey should be conducted at least every five years to review the pay differentials set in statute, AS 39.27.020. The last time a cost of living survey was conducted under this statute was in 1983, more than 20 years ago. It is important to determine if the cost of living in various communities around the state has changed over this twenty-year period. Factors involving access to consumer goods, changing economic conditions in a community and employment growth and opportunities have most likely impacted cost of living conditions around the state.

Currently, statutes provide an adjustment to salary schedules for exempt and partially exempt employees based upon where these employees work and reside. Classified employees receive similar adjustments based on negotiated provisions of the various Collective Bargaining Agreements (CBA). However, since CBA's are negotiated once every three years, the geographic pay differential rates can have significant variations between the statutory pay and those contained in the CBA's. It is in the best interest of the State of Alaska that similarly situated public employees be paid at the same rate as classified employees. The only means to accomplish a more level playing field in employee salaries is to conduct a new cost of living survey based upon current cost around the state.

Senate Bill 152 would appropriate the funds necessary to move forward on a cost of living survey. This study of wage rates and cost of living comparisons is important for establishing compensation amounts for public employees. Over time, some differentials have changed to reflect the change in cost of living, while state statutes remain unchanged since there has not been an update on the Cost of Living survey. The recent School District Cost Study highlights that a cost of living study should be done soon to ensure that the geographic pay differential provided to public employees is up to date.

RESOLUTION ON SENATE BILL 152
GEOGRAPHIC PAY DIFFERENTIAL

WHEREAS, a "cost of living survey" is required to be done under state law once every five years and that survey must reflect the costs of living in various election districts of the state using Anchorage as the base (see A.S. 39.27.030); and,

WHEREAS, this cost of living survey is the basis upon which geographic pay differential is determined for collective bargaining agreements and for state statutes which provide pay differential for non-unionized public employees; and,

WHEREAS, the last cost of living survey was conducted 20 years ago when commerce did not include internet access and transportation and delivery of goods required less air travel; and,

WHEREAS, in 1986 in the face of the oil price crash, unionized state employees agreed to reduce the geographic pay differential contained within the collective bargaining agreements and that non-unionized state employees did not make the same adjustments; and,

WHEREAS, the cost of living in rural Alaska continues to increase compared to the cost of living in metropolitan areas; and,

WHEREAS, performing a cost of living survey is contingent upon the legislature appropriating the funding for the study;

THEREFORE BE IT RESOLVED that the Bush Community Committee of ASEA/AFSCME Local 52, AFL-CIO, calls upon the Alaska State Legislature and the Governor to move forward on a cost of living survey within the state of Alaska to determine the true and fair cost differentials of living in rural Alaska as compared to living in the Anchorage area.

Submitted by:

ASEA/AFSCME Local 52 Bush Community Committee, March 24, 2005

AMENDMENT

OFFERED IN THE SENATE
TO: SB 152

BY SENATOR WAGONER

- 1 Page 1, line 7:
- 2 Delete "in accordance with AS 39.27.030"
- 3 Insert "by using the cost of living in Anchorage as a base relative to the cost of living
- 4 in the various election districts of the state and the greater Puget Sound area of Washington"



Alaskans Working For Alaska!

1577 C Street, Suite 201, Anchorage, Alaska 99501 • Phone (907)277-5200 • Fax (907)277-5206

E-mail: aseahq@afscmelocal52.org • Website: www.afscmelocal52.org

March 24, 2005

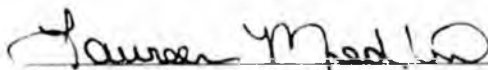
Senator Gene Therriault, Chairman
Senate State Affairs Committee
Alaska State Legislature
Juneau AK 99801

RE: SENATE BILL 152


Dear Senator Therriault:

The Bush Community Committee of ASEA/AFSCME Local 52, AFL-CIO, hereby submits a resolution adopted at its March 24, 2005, meeting. The committee voted unanimously in favor of passage of Senate Bill 152 and urges the Senate State Affairs Committee to act expeditiously on this bill.

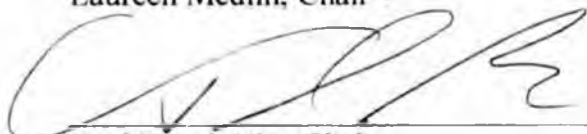
Respectfully submitted,



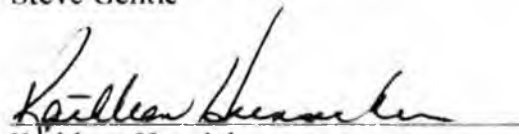
Lauren Medlin, Chair



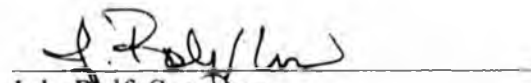
Steve Gentle



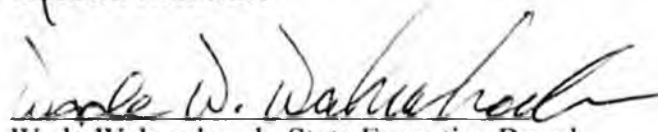
Toni Bocci, Vice Chair



Kathleen Hunsicker



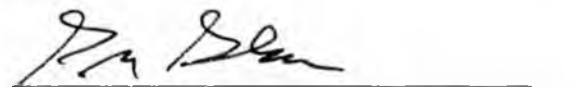
July Rblf, Secretary



Wade Wahrenbrock, State Executive Board
Liaison



Mike Gardner



Gordon Glaser, President, ASEA/AFSCME
Local 52, AFL-CIO

Sec. 39.27.030. Cost-of-living survey. Subject to an appropriation for this purpose, the director shall conduct a survey, at least every five years, to review the pay differentials established in AS 39.27.020. The survey may address factors, as determined by the director, that are also relevant in review of state salary schedules, entitlement for beneficiaries of state programs, and payments for state service providers. The survey must reflect the costs of living in various election districts of the state, and Seattle, Washington, by using the cost of living in Anchorage as a base. In this section, "election district" has the meaning given in AS 39.27.020(b). (§ 1 ch 226 SLA 1970; am §§ 1, 2, 4 ch 42 SLA 1971; am § 12 ch 4 FSSLA 1996; am § 86 ch 21 SLA 2000)

Cross references. — For gathering data reflecting the cost of living in various election districts, see AS 44.31.020(4).

Effect of amendments. — The 1996 amendment, effective July 1, 1996, rewrote this section.

The 2000 amendment, effective April 28, 2000, added the last sentence.

Editor's notes. — Under § 45, ch. 4, FSSLA 1996, the provisions of that act, which amended this section, are not severable, notwithstanding AS 01.10.030.

Sec. 39.27.035. Preparation and submission of pay schedules. [Repealed, § 20 ch 4 FSSLA 1996.]

Sec. 39.27.040. University salary survey. [Repealed, § 20 ch 4 FSSLA 1996.]

Sec. 39.27.045. Definition. In AS 39.27.020 — 39.27.030, "director" means the director of the division of personnel. (§ 1 ch 226 SLA 1970; am § 13 ch 4 FSSLA 1996)

Effect of amendments. — The 1996 amendment, effective July 1, 1996, made section reference substitutions.

Chapter 28. Equal Employment Opportunity Program.

Section

- 10. Administration of equal employment opportunity program
- 20. Powers and duties of the director of personnel regarding the administration of the equal employment opportunity program
- 30. Administrative regulations

Section

- 40. Affirmative action plan
- 50. Compliance with affirmative action plan
- 60. Employment discrimination complaints
- 70. Retaliation prohibited
- 80. Access to confidential records
- 200. Definitions

Cross references. — For transitions' provisions relating to the 1995 transfer of the Office of Equal Employment Opportunity from the Department of Administration to the Office of the Governor, see § 4, E.O. 91, in the Executive Orders pamphlet. For transitional provisions relating to the 2003 transfer of the

equal employment opportunity program from the Office of the Governor to the Department of Administration, see § 5, E.O. 104, in the Executive Orders pamphlet.

Effective dates. — Section 6, E.O. 104 (2003) makes this chapter effective March 23, 2003

Sec. 39.28.010. Administration of equal employment opportunity program. The director of personnel shall administer the equal employment opportunity program for the executive branch of state government to assure compliance with this chapter. (E.O. No. 104 § 2 (2003))

Sec. 39.28.020. Powers and duties of the director of personnel regarding the administration of the equal employment opportunity program. (a) The director of the division of personnel shall

- (1) assist state officials to carry out their equal employment opportunity responsibilities, including promoting the recruitment, employment, training, and retention of members of protected classes, and recommend solutions to any problems identified.

§ 39.27.015

PUBLIC OFFICERS AND EMPLOYEES

PAY PL

Revisor's notes. — Section 6, ch. 138, SLA 1975, provided that this section would be repealed on the effective date of a pay schedule adopted under a section enacted by a particular bill. However, that bill did not become law.

Effect of amendments. — The 1996 amendment, effective May 16, 1996, inserted "of the division of personnel" in the first sentence.

Sec. 39.27.015. Cost-of-living adjustments. [Repealed, § 12 ch 30 SLA 2001]

Sec. 39.27.020. Pay step differentials by election district. (a) The following pay step differentials are approved as an amendment to the salary schedules provided in AS 39.27.011:

Election District	Pay Steps Above Salary Schedule
1	0
2	1
3	1
4	0
5	2
6a (excluding Valdez Duty Station)	4
6b (Valdez Duty Station)	5
7	1
8	0
9	2
10	2
11	2
12	7
13	7
14	8
15a (excluding Nenana Duty Station)	9
15b (Nenana Duty Station)	8
16a (south of Arctic Circle)	4
16b (north of Arctic Circle)	9
17	9
18	9
19	8
In other states	minus 6

(b) For purposes of (a) of this section, "election district" means an election district designated in the governor's proclamation of reapportionment and redistricting of December 7, 1961.

(c) The director of the division of personnel shall establish salary differentials for positions in foreign countries. The differentials shall be adjusted annually, effective July 1, to maintain equitable relationships between salaries for positions in foreign countries and salaries for positions in Alaska. (§ 1 ch 158 SLA 1966; am § 8 ch 101 SLA 1969; am § 2 ch 87 SLA 1971; am § 3 ch 47 SLA 1974; am § 3 ch 138 SLA 1975; am § 13 ch 148 SLA 1976; am §§ 32, 33 ch 3 SLA 1980; am § 45 ch 30 SLA 1996)

Revisor's notes. — Section 6, ch. 138, SLA 1975, provided that this section would be repealed on the effective date of a pay schedule adopted under a section enacted by a particular bill. However, that bill did not become law.

Effect of amendments. — The 1996 amendment, effective May 16, 1996, inserted "of the division of personnel" in the first sentence of subsection (c).

Sec. 39.27.022. Pay increments for longevity in state service. (a) Pay increments, computed at the rate of 3.75 percent of the employee's base salary, shall be provided after an employee has remained in the final step within a given range for two years, provided that the employee has worked continuously for the state for seven years and provided that the current annual rating by the employee's supervisors is designated as "good" or higher.

Additional increments, each of which shall be provided under this section if the employee has remained in the final step within a given range for two years, provided that the employee has worked continuously for the state for seven years and provided that the current annual rating by the employee's supervisors is designated as "good" or higher. This section applies to employees of the office of the ombudsman only if the ombudsman certifies to the employees of the office that the section applies. (AS 39.25.150(2) as an amendment to AS 39.27.022 by sec. 8 of this Act, an emergency clause that takes effect immediately. SLA 2001)

Effect of amendments. — The 2001 amendment, effective July 1, 2002, added the last sentence of subsection (d).

Revisor's notes. — Section 10, ch. 2 of the 1996 Act, added AS 39.27.022 by sec. 8 of this Act, an emergency clause that takes effect immediately. The legislature who has received a longevity increment under AS 39.27.022 before June 1, 2002, shall continue to receive the increment until the employee adopts a policy on longevity pay increments.

The purposes of this section are: to provide a reward for long service, and to reestablish an incentive for employees who have attained the final step with their employment. Alas. Ass'n v. State, 525 P.2d 12 (Alaska 1974).
Legislative history. — See Alaska Ass'n v. State, 525 P.2d 12 (Alaska 1974).
 The language of this section is unambiguous as to when the provisions of either subsection (a) or (b) should be implemented. Employees Ass'n v. State, 525 P.2d 12 (Alaska 1974).

But at least some increment should be implemented immediately. — The section is not clear and unambiguous as to when the provisions of either subsection (a) or (b) should be implemented. Free Conference Committee Report, Alaska Public Employees Ass'n v. State, 525 P.2d 12 (Alaska 1974).

No basis for assigning different times to increments of salary. (b). — Since the wording of subsection (b) is nearly identical, there would seem to be no basis for assigning different times to increments of salary.

Sec. 39.27.025. Swing shift. (a) Swing shift employees shall be paid a premium of 12:00 noon and 7:59 p.m. established by this chapter. (b) Classified and part-time employees shall be paid a premium of 12:00 noon and 7:59 p.m. established by this chapter. (c) Classified and part-time employees shall be paid a premium of 12:00 noon and 7:59 p.m. established by this chapter.

Geographic Pay Differential Comparisons

Area	GGU - % basis	State (Step Basis)	3.75% Multiplier % conversion
Outside Anchorage	-13	-6	-22.5
Ketchikan	0	0	0
Wrangell	0	1	3.75
Sitka	0	1	3.75
Juneau	0	0	0
Skagway/Haines	5	2	7.5
Valdez	11	5	18.75
Cordova/Glenallen	11	4	15
Palmer/Wasilla	0	1	3.75
Anchorage	0	0	0
Kenai	0	2	7.5
Kodiak	9	2	7.5
Aleutians	27	7	26.25
Bristol Bay	27	7	26.25
Bethel	38	8	30
Aniak, McGrath, Galena	30	9	33.75
Nenana	20	4	15
Fairbanks	4	4	15
Big D & Tok	16	4	15
Fort Yukon (above)	42	9	33.75
Barrow, Kot	42	9	33.75
Nome	34	9	33.75
Wade Hampton	30	8	30

**RESOLUTION ON SENATE BILL 152
GEOGRAPHIC PAY DIFFERENTIAL**

WHEREAS, a "cost of living survey" is required to be done under state law once every five years and that survey must reflect the costs of living in various election districts of the state using Anchorage as the base (see A.S. 39.27.030); and,

WHEREAS, this cost of living survey is the basis upon which geographic pay differential is determined for collective bargaining agreements and for state statutes which provide pay differential for non-unionized public employees; and,

WHEREAS, the last cost of living survey was conducted 20 years ago when commerce did not include internet access and transportation and delivery of goods required less air travel; and,

WHEREAS, in 1986 in the face of the oil price crash, unionized state employees agreed to reduce the geographic pay differential contained within the collective bargaining agreements and that non-unionized state employees did not make the same adjustments; and,

WHEREAS, the cost of living in rural Alaska continues to increase compared to the cost of living in metropolitan areas; and,

WHEREAS, performing a cost of living survey is contingent upon the legislature appropriating the funding for the study;

THEREFORE BE IT RESOLVED that the Bush Community Committee of ASEA/AFSCME Local 52, AFL-CIO, calls upon the Alaska State Legislature and the Governor to move forward on a cost of living survey within the state of Alaska to determine the true and fair cost differentials of living in rural Alaska as compared to living in the Anchorage area.

Submitted by:

ASEA/AFSCME Local 52 Bush Community Committee, March 24, 2005

SENATE BILL NO. 152

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY SENATOR WAGONER

Introduced: 3/24/05

Referred: State Affairs, Finance

Funding Information:	General Fund	\$500,000
	Other Funds	-0-
	Total	\$500,000

A BILL

FOR AN ACT ENTITLED

1 "An Act making a special appropriation for a survey to review pay differentials; and
 2 providing for an effective date."

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

4 * Section 1. SURVEY OF PAY DIFFERENTIALS. The sum of \$500,000 is appropriated
 5 from the general fund to the Department of Administration, division of personnel, for the
 6 fiscal year ending June 30, 2006, for a survey to review pay differentials established in
 7 AS 39.27.020 in accordance with AS 39.27.030.

8 * Sec. 2. This Act takes effect July 1, 2005.

ending deadline = due date

INTERIM

COLLECTIVE BARGAINING AGREEMENT

between the

**ALASKA STATE EMPLOYEES ASSOCIATION,
AMERICAN FEDERATION OF STATE, COUNTY
AND
MUNICIPAL EMPLOYEES
LOCAL 52, AFL-CIO**

and the

**STATE OF ALASKA
covering the
GENERAL GOVERNMENT BARGAINING UNIT**

July 2004 through June 30, 2007

GGU 2004-2007 INTERIM Agreement

- B. Effective July 1, 2002, longevity increment step J of the schedule provided in Sections 21.01.A and B shall be increased by four tenths of one percent (.4%) and steps K, L and M shall be adjusted to provide an increment between longevity steps of three and three-quarters percent (3.75%). The increment between longevity steps of three and three-quarters percent (3.75%) shall be maintained for subsequent wage adjustments.
- C. Effective December 1, 2002, the wage schedules referenced above shall be increased by an additional three percent (3%).

21.03 Geographic Differential. ¹ The following pay step differentials are approved as an amendment to the basic pay plan provided in Section 21.01.

Illustrative Place Names & Duty Stations	House Election Districts	% Above/Below Basic Pay Plan
Ketchikan, Prince of Wales	1	0
Wrangell, Petersburg	2	0
Sitka	3	0
Juneau	4	0
Skagway, Haines, Yakutat	5	5
Valdez, Cordova, Glennallen	6	11
Palmer, Wasilla	7	0
Anchorage	8	0
Seward	9	0
Kenai, Cook Inlet	10	0
Kodiak	11	9
Aleutian Islands	12	27
Bristol Bay	13	27
Belhel	14	38
Nenana Duty Station	15b	20
Aniak, McGrath, Galena	15a	30
Fairbanks	16a	4
Delta Junction, Tok	16b	16
Fort Yukon (above Arctic Circle)	16c	42
Barrow, Kotzebue	17	42
Nome	18	34
Wade Hampton	19	30
Outside Alaska Seattle		-13

The Election Districts used are those designated by the Proclamation of Reapportionment Redistricting of December 7, 1981, and retained for the House of Representatives by proclamation of the Governor on September 2, 1985. Employees on frozen geographic differential pay due to prior changes in geographic differential shall, except in the case of a demotion, be frozen for so long as they remain in their current differential area or until wage increases or changes in the employee's position result in the employee receiving a higher wage than the frozen amount. In the case of a demotion, the employee's geographic differential rate shall remain frozen at the differential rate in effect on the date of demotion.

21.04 Swing and Graveyard Shift Differentials. ¹

- A. All bargaining unit members who work a "swing" shift which starts between 12 noon and 7:59 p.m. are entitled to a 3.75 percent increase over their basic salary as established by this Article for all hours worked in each such shift.
- B. All bargaining unit members who work a "graveyard" shift which starts between 8 p.m. and 5:59 a.m. are entitled to a 7.5 percent increase over their basic salary as established by this Article for all hours so worked in each such shift.
- C. All bargaining unit members who are assigned to work a shift originally assigned to another member shall be paid the appropriate shift differential which the other member would have been paid.

¹ The Temporary Agreement language was not implemented in the 2004-2007 Letter of Agreement for this Article. This is the current language of the 2003-2004 Agreement.



Collective Bargaining Agreement

between

Alaska State Employees Association
AFSCME Local 52, AFL-CIO

and the

State of Alaska

covering

General Government Unit Employees

July 1, 2000 through June 30, 2003



in subsection C.

- G. Bargaining unit members may continue to utilize options available under the State of Alaska Deferred Compensation Plan as a means to provide supplemental retirement income and or defer income and corollary tax deductions until a later date.

21.02 Wage Adjustments.

- A. Effective January 1, 2002, the wage schedules provided in Section 21.01.A and B shall be increased by two percent (2%).
- B. Effective July 1, 2002, longevity increment step J of the schedule provided in Section 21.01.A and B shall be increased by four tenths of one percent (.4%) and steps K, L and M shall be adjusted to provide an increment between longevity steps of three and three quarters percent (3.75%). The increment between longevity steps of three and three quarters percent (3.75%) shall be maintained for subsequent wage adjustments.
- C. Effective December 1, 2002, the wage schedules referenced above shall be increased by an additional three percent (3%).

21.03 Geographic Differential. The following pay stop differentials are approved as an amendment to the basic pay plan provided in Section 21.01.

Illustrative Place Names & Duty Stations	House Election Districts	% Above/Below Basic Pay Plan
Ketchikan, Prince of Wales	1	0
Wrangell, Petersburg	2	0
Sitka	3	0
Juneau	4	0
Skagway, Haines, Yakutat	5	5
Valdez, Cordova, Glennallen	6	11
Palmer, Wasilla	7	0
Anchorage	8	0
Seward	9	0
Kenai, Cook Inlet	10	0
Kodiak	11	9
Aleutian Islands	12	27
Bristol Bay	13	27
Bethel	14	38
Nenana Duty Station	15b	20
Aniak, McGrath, Galena	15a	30
Fairbanks	16a	4
Delta Junction, Tok	16b	16
Fort Yukon (above Arctic Circle)	16c	42
Barrow, Kotzebue	17	42
Nome	18	34
Wade Hampton	19	30
Outside Alaska Seattle		-13

The Election Districts used are those designated by the Proclamation of Reapportionment/Redistricting of December 7, 1961, and retained for the House of Representatives by proclamation of the Governor on September 2, 1965. Employees on frozen geographic differential pay due to prior changes in geographic differential shall, except in the case of a demotion, be frozen for so long as they remain in their current differential area or until wage increases or changes in the employee's position result in the employee receiving a higher wage than the frozen amount. In the case of a demotion, the employee's geographic differential rate shall remain frozen at the differential rate in effect on the date of demotion.

through 49. It is agreed that the rate of two dollars and twenty-five cents (\$2.25) per day shall remain in effect for those employees stationed outside Alaska.

Further, subsistence will be converted to an hourly rate and added to the employee's hourly rate as determined by Sections 13.02 and 13.04. The conversion shall be as follows:

	daily rate
x (times)	steps due district
x (times)	7
/ (divided by)	37.5.

The Election Districts used below are those designated by the Proclamation of Reapportionment Redistricting of December 7, 1961, and retained for the House of Representatives by proclamation of the Governor September 3, 1965.

Illustrative Place Name	House Elections Districts	Steps Above Pay Plan
Ketchikan	1	0
Prince of Wales	1	1
Wrangell-Petersburg	2	1
Sitka	3	1
Juneau	4	0
Icy Strait-Lynn Canal	5	2
Yakutat	5	4
Cordova	6(a)	4
Valdez	6(b)	5
Palmer-Wasilla	7	1
Cascade ¹	7(a)	2
Anchorage	8	0
Seward	9	2
Kenai-Cook Inlet	10	2
Kodiak	11	3
Aleutian Islands	12	8
Bristol Bay	13	8
Bethel	14	8
Yukon-Kuskokwim ²	15(a)	9
Nenana-Cantwell-Healy-Livengood-Manley	15(b)	7
Fairbanks (South of Arctic Circle)	16(a)	4
Eagle, Chicken, Circle, 40 Mile, Tok, Delta, Trimmis Camp, Northway	16(b)	5
Fort Yukon (North of Arctic Circle)	16(c)	9
Barrow-Kobuk	17	9
Nome	18	8
Wade-Hampton	19	8
Outside Alaska		- 4

- (1) It is agreed that Talkeetna, Chulitna and Willow shall be considered to be in District 7(a) for subsistence purposes.
- (2) It is agreed that Seven Mile Camp shall be considered to be in District 15(a) for subsistence purposes.

13.06 - PREMIUM PAY

- A. OVERTIME.** An employee shall be paid overtime for all work in excess of eight (8) hours of work in any one day and forty (40) hours of work in any one (1) week, at one and one-half (1.5) times the basic rate of pay.

For all work performed on the employee's first or second scheduled day off, one and one-half (1.5) times the basic rate of pay shall be allowed. However, for all work on the seventh consecutive day of work, two (2) times the basic rate of pay shall be allowed.

For purposes of clarification it is agreed that the employee's first scheduled day off begins twenty-four (24) hours following the scheduled start time of the employee's last shift of work for that workweek and the employee's second day off begins forty-eight (48) hours following the scheduled start of the employee's last shift of work for that workweek. An employee shall receive two (2) times the basic rate of pay for all hours of work performed between the forty-eighth (48th) hour described herein and the start of the employee's next regularly scheduled shift, provided the employee is working a standard workweek of five (5) consecutive days followed by two (2) days off and the employee worked on the employee's first scheduled day off.

Overtime shall not be compulsory (except in dire emergency) and shall be distributed as evenly as possible among those employees desiring to work the overtime. Overtime and holiday pay shall not be pyramided or duplicated. Hours paid at an overtime rate shall only be credited once in the calculation of hours in the workweek for overtime purposes.

- B. Holiday Pay.** All work performed on holidays shall be paid at one and one-half (1.5) times the basic rate of pay in addition to holiday pay. Overtime and holiday pay shall not be pyramided or duplicated. Hours paid at an overtime rate shall only be credited once in the calculation of hours in the workweek for overtime purposes.
- C. Shift Differential.** All bargaining unit members who work a swing shift beginning between 11 a.m. and 7:59 p.m. are entitled to 3.75 percent of the employee's base hourly rate for each hour worked on that daily shift.

All bargaining unit members who work a graveyard shift beginning between 8 p.m. and 5:59 a.m. are entitled to 7.50 percent of the employee's base hourly rate for each hour worked on that daily shift.

For the purposes of this section, the starting time of the employee's regular shift, excluding overtime hours, shall determine eligibility for shift differential. All hours worked from the beginning of the employee's regular shift until the starting time of the employee's following regular shift shall be paid shift differential at the same differential rate including those hours worked on the employee's regular scheduled days off.

- D. Hazard Pay.** Employees who are required to work under dangerous conditions shall receive hazard pay of 7.5 percent in four (4) hour increments so worked. Dangerous conditions shall be defined as:

39.25.010. Any change in job class allocation shall be effective the pay period following receipt of the arbitrator's award.

3. No more than one (1) request may be submitted for a position in any 12 month period unless substantial changes in duties have occurred.
4. The time frames contained herein may be altered by mutual agreement of the parties.

13.04 - SERVICE BONUS

Two service bonus steps, labeled Step C and Step D, shall be added to the wage scale provided in Section 13.02. An employee with seven (7) years of continuous probationary/permanent service with the Employer who has been at Step B of his or her current wage group for at least two (2) years shall be paid at Step C commencing on the first day of the pay period following the fulfillment of the service requirement.

An employee with nine (9) years of continuous probationary/permanent service with the Employer who has been at Step C of his or her current wage group for at least two (2) years shall be paid at Step D commencing on the first day of the pay period following the fulfillment of the service requirement.

The movement from Step B to C, from Step C to D, and from Step D to E shall be extended one month for each 23 working days of leave without pay in a leave year.

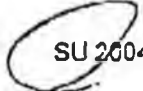
A percentage based service bonus system is adopted. The percentages shall be three percent (3%) above Step B for Step C; three percent (3%) above Step C for Step D and beginning July 1, 2002, a new Step E three percent (3%) above Step D for employees who have been employed by the State of Alaska for 15 or more years and have been in Step D for at least two (2) years.

Following are the wage rates for Steps C, D and E:

	<u>7/1/99 - 6/30/01</u>		<u>7/1/01 - 6/30/02</u>		<u>7/1/02 - 6/30/03</u>		
	<u>Step C</u>	<u>Step D</u>	<u>Step C</u>	<u>Step D</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>
Wage Group 49	20.60	20.46	20.18	30.06	30.06	30.96	31.89
Wage Group 50	26.90	27.71	27.44	28.26	28.26	29.11	29.98
Wage Group 51	25.50	26.27	26.02	26.80	26.80	27.60	28.43
Wage Group 52	24.12	24.84	24.61	25.35	25.35	26.11	26.83
Wage Group 53	22.67	23.35	23.12	23.81	23.81	24.52	25.26
Wage Group 54	21.27	21.91	21.69	22.34	22.34	23.01	23.70
Wage Group 55	20.07	20.67	20.48	21.09	21.09	21.72	22.37
Wage Group 56	18.89	19.46	19.27	19.85	19.85	20.45	21.06
Wage Group 57	17.79	18.32	18.15	18.69	18.69	19.25	19.83
Wage Group 58	16.72	17.22	17.05	17.56	17.56	18.09	18.63
Wage Group 59	15.88	16.34	16.18	16.67	16.67	17.17	17.69
Wage Group 60	14.55	14.89	14.84	15.29	15.29	15.75	16.22
Wage Group 61	12.73	13.11	12.99	13.38	13.33	13.78	14.19

13.05 - SUBSISTENCE

Subsistence shall be calculated as a daily rate according to geographic location and only at permanent work locations at two dollars and thirty-eight cents (\$2.38) per day times step due district for eligible employees in Wage Groups 61 through 56 and two dollars and fifty-three cents (\$2.53) per day times step due district for those eligible employees in Wage Groups 55



SU 2004-2007 Master Agreement

<u>Illustrative Place Names and Duty Stations</u>	<u>House Election Districts</u>	<u>Percentage Above Basic Pay Plan</u>
Ketchikan	1	
Wrangell/Petersburg	2	
Sitka	3	
Juneau	4	
Haines/Skagway/Yakutat	5	5.0%
Cordova/Valdez/Glennallen	6	1.0%
Palmer/Wasilla	7	
Anchorage	8	
Seward	9	
Kenai/Cook Inlet	10	
Kodiak	11	9.0%
Aleutian Island	12	27.0%
Bristol Bay	13	27.0%
Bethel	14	38.0%
Yukon/Kuskokwim	15A	30.0%
Nenana	15B	20.0%
Fairbanks	16A	4.0%
(South of Arctic Circle)		
Delta (Duty Station)	16B	16.0%
Tok (Duty Station)	16B	16.0%
Fort Yukon	16C	42.0%
(North of Arctic Circle)		
Barrow/Kobuk	17	42.0%
Nome	18	34.0%
Wade-Hampton	19	30.0%
Seattle/Tacoma		-13.0%

The Election Districts used are those designated by the Proclamation of Reapportionment Redistricting of December 7, 1961, and retained for the House of Representatives by proclamation of the Governor on September 2, 1975.

- A. In those instances where a geographic differential was lowered effective January 1, 1987, the salaries of affected Bargaining Unit Members except in the case of a demotion, will be frozen for so long as they remain in their current geographic differential area, or until salary increases or changes in the Bargaining Unit Member's position result in the member receiving a higher salary than the frozen amount. In the case of a demotion, the member's geographic differential will be frozen at the rate in effect prior to implementation of the study.
- B. In the event AS 39.27.020 "Pay step differentials by election district and in other states" is amended, modified or abolished, the provisions of AS 39.27 regarding pay step differentials as so amended, modified or abolished will replace Article 24.3 Geographic Differentials on the effective date of the changes with the following exceptions.

In those instances in which the geographic differential of a current Bargaining Unit Member is lowered by incorporation of the provisions of AS 39.27 under this section, the salaries of affected Bargaining Unit Members (except in cases of demotion) will be frozen for the life of the Agreement so long as they remain in their current geographic differential area, or until salary increases or changes in the Bargaining Unit Member's position result in the Member

SB

154

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax (907) 465-3884
SENATE DISTRICT F

SPONSOR STATEMENT SENATE BILL 154

"An Act relating to the jurisdiction for proceedings relating to delinquent minors and to telephonic and televised participation in those proceedings; amending Rules 2, 3, 4, 8, 12, 13, 14, 15, 16, 21, 22, 23, 24.1, and 25, Alaska Delinquency Rules; and providing for an effective date."

Senate Bill 154 addresses two concerns of juvenile justice in Alaska: first, improving the state's ability to hold juvenile offenders accountable for their conduct; and second, increasing the efficiency of the juvenile justice system by allowing telephonic hearings where personal appearance is not necessary for the fair determination of an issue.

Senate Bill 154 fills a serious gap in Alaska's statutes that allows young offenders to avoid prosecution if their role in a crime is not discovered until after the offender becomes 18 years of age, or if charges are not filed before the offender turns 18.

- Currently, when a person under 18 commits a delinquent act, the juvenile justice system is responsible for the matter; when a person over 18 commits a crime, the adult criminal system is responsible for prosecution;
- Recent court decisions have highlighted a loophole in the law: that is where a youth commits a delinquent act while under 18 years of age, but is not discovered or proceedings aren't filed until the person reaches 18. Neither the adult or juvenile system has clear jurisdiction.
- This gap is illustrated by a recent case that arose in Kenai: The State filed a Petition for Adjudication of Delinquency on a 19-year-old who was alleged to have committed a sexual assault when he was 17 years old. The Superior Court dismissed the petition, holding "there

is nothing in the statutes that suggests the legislature contemplated adjudication trials for adults who committed crimes as juveniles."

- Senate Bill 154 will fill this gap in jurisdiction by holding the juvenile accountable. The key change is found in proposed AS 47.12.020(b); it provides that the delinquent minor statutes (AS 47.12) apply to a person who commits a violation of the criminal law of the state or a municipality while under 18 years of age, if the period of limitation under AS 12.10 has not expired.

Senate Bill 154 also amends Alaska's Delinquency Rules to allow for telephonic participation by juvenile offenders in certain proceedings. The law would still require a juvenile offender to be present for all hearings where personal presence is necessary for a fair determination of the issue. However, it would avoid expensive travel, where juveniles are transported to court appearances such as status hearings, when telephonic or televised appearance is adequate for the matter to be fairly decided.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB154-DHSS-DJJ-04-05-05

Revision Date/Time (Note if correction): _____

() Publish Date: _____

Title JUVENILE DELINQUENCY PROCEEDINGS

Dept. Affected: Health & Social Services

RDU Juvenile Justice

Component McLaughlin Youth Center

Sponsor THERRIAULT

Requester SENATE (STA)

Component No. 264

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

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

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

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: _____

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note captures two different aspects of the bill. The first is related to juvenile jurisdiction. The bill would change the statute to allow for juvenile proceedings for individuals over 18 years of age when the person is alleged to have committed a violation of the criminal law of the state, the violation occurred when the person was under 18 years of age, and the statute of limitations for the offense has not expired. Currently, there is no jurisdiction for this if the matter is not brought before the court before they turn 18. The second aspect of the bill is related to court appearances by juveniles. The bill would allow certain juvenile court hearings to be conducted through telephonic or televised participation of the juvenile.

The Division has determined that the fiscal impact of this bill will be zero. The potential savings in court appearances will be offset by the cost to the division to process additional referrals or offenders who fall under

Prepared by: Sherry Hill, Special Assistant

Phone 465-1618

Division: Office of the Commissioner

Date/Time 04/05/2005

Approved by: Joel S. Gilbertson, Commissioner

Date 04/04/2005

Agency: Department of Health and Social Services

**FISCAL NOTE
FN #**

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. SB154-DHSS-DJJ-04-05-05

ANALYSIS CONTINUATION
the jurisdictional provisions of the bill.

THERE IS ZERO FISCAL IMPACT ON ANY OF THE YOUTH FACILITIES OPERATED BY THE DIVISION. THIS FISCAL NOTE FOR MCLAUGHLIN YOUTH CENTER SERVES AS A PROXY FOR THE OTHER FACILITIES AS WELL.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB154-LAW-CDCO-4-6-I
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the jurisdiction for RDU CRIMINAL
proceedings relating to delinquent minors and to telephonic..." Component Criminal Justice Litigation
 Sponsor Senator Therriault
 Requester Senate State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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 - Regulatory Cost Charge						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This bill amends AS 47.12 (Delinquent Minors) by expanding jurisdiction of the juvenile court to allow prosecution of people who commit crimes as juveniles but it is not discovered until they are adults, or the state is unable to file a petition case before the person turns 18. There are not many cases that will fall into this group. The bill also expands the use of telephonic hearings in juvenile cases. Currently a minor has the right to be present at almost every stage of the proceeding. The bill would expand those hearings (such as regular status hearings) where telephonic participation is allowed.

 Passage of this legislation will have no fiscal impact on the Department of Law aside from some minor savings in the cost of transportation.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 4/6/05 2:40 PM
 Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 4/6/2005
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 154
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to the jurisdiction RDU Legal and Advocacy Services
of delinquency proceedings Component Public Defender Agency
 Sponsor Senator Thernault
 Requester Senate State Affairs Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 00

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends the juvenile delinquency statutes to broaden its jurisdiction to reach persons who are over 18 and no longer minors, but who are alleged to have committed a criminal offense or violation while a minor. The Public Defender Agency's operations will be fiscally impacted because it will increase its caseload with offenses that are currently not prosecuted. It is not possible to predict with any accuracy, however, the number of new cases that would be assigned to the Agency, that will be generated as a result of this broadened jurisdiction. This bill also provides for a Delinquency Rule change to allow the court, upon the application of any party, to allow telephonic or televised participation of the minor at certain court hearings. This will also have a fiscal impact on PD operations because it will require the minor's appointed attorney to take additional time to travel to the minor to be present with the minor for these permitted telephonic proceedings to facilitate adequate representation of the minor. For all of the above reasons an indeterminate note is submitted.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)334-4416
 Division: Public Defender Agency Date/Time 4/4/05 8:54 AM
 Approved by: Mike Tibbles, Deputy Commissioner Date 4/4/2005
 Agency: Department of Administration