

12160

HOUSE

JUDICIARY

LESSMEIER & WINTERS

LAWYERS - LLC

**VINTAGE BUSINESS PARK
3000 VINTAGE BOULEVARD
SUITE 100
JUNEAU, ALASKA 99801**

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

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

VIA HAND DELIVERY

February 2, 2007

**The Honorable Carl Gatto
Alaska House of Representatives
State Capitol, Room 108
Juneau, Alaska 99801-1182**

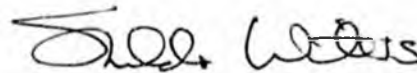
**The Honorable Max Gruenberg
Alaska House of Representatives
State Capitol, Room 110
Juneau, Alaska 99801-1182**

Re: House Bill 88

Dear Representative Gatto and Representative Gruenberg:

State Farm Insurance supports House Bill 88. If there is any information or assistance we can provide in getting this legislation passed, please let me know. Thank you for sponsoring this bill.

Sincerely,



**Sheldon E. Winters
Lobbyist for State Farm Insurance Companies**



Mailin: P.O. Box 231110, Anchorage, Alaska 99523-1110
Physical: 6707 Greenwood Dr., Anchorage, Alaska 99518
Business Office: (907) 562-6805 Dispatch: (907) 929-9999

"Going Your Way 24 Hours a Day"

Dear: Representative Gruenberg

We are in the taxicab dispatch business in Anchorage Alaska and are afraid this proposed bill will put our company out of business. We are the largest taxicab dispatch company in Alaska and cannot do it without our computerized digital dispatch system. Since installation of our system the crimes committed against taxicab drivers in Anchorage has significantly declined. The car accident rates have also declined. Overall it has made cabs in Anchorage safer and more efficient.

I drafted a possible way to amend HB12 so it will not restrict commercial vehicles utilizing computerized digital dispatch systems for package and passenger service. I think the intent of this bill is to prevent the viewing of DVDs the internet or video technology from distracting the driver of vehicles in motion. I feel this is a worthwhile bill as long as it does not prevent established commercial businesses to use custom designed digital dispatch equipment.

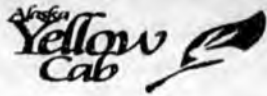
Wireless technology is advancing at a very rapid rate. I feel that customers who have this equipment and are willing to use it only in the backseat of a taxicab should be acceptable as long as it is out of view of the driver of the vehicle while the vehicle is in motion. There are a consider amount of riders who do use laptop computers and portable DVD players in taxicabs at this time. I feel it is wise to put a provision in this bill which allows this technology to be used by passengers located "out of the drivers view" in the behind the driver seating of the vehicle.

Below I have authored a draft of a possible amendment to this bill which will give make this bill reasonable for commercial business such as ours:

Computerized equipment used in commercial motor vehicles with the principal design, configuration and function for use in mobile vehicle digital dispatching exclusively for passenger transportation or package delivery service is allowed. Vehicles must be in compliance with all local and state regulated licensing requirements. If computerized equipment contained in commercial vehicles has the capability of two way internet web based video communication and/or has the ability to display copywrited motion video, then this equipment must be configured to blank out the screen from the view of the driver at all times when the vehicle is in motion. All internet based computers and video players intended for passenger use must be used only in seating located behind the driver of the vehicle and the screen must at all times when the vehicle is in motion be kept from the view of the driver.

You may also want to include a requirement for all commercial passenger carrying vehicles to display a sign inside with reads as follows:

WARNING: Use of portable computers or video equipment in the view of the driver while vehicle is in motion is prohibited and fineable by law.



Mailing: PO Box 231110, Anchorage, Alaska 99523-1110
Physical: 6707 Greenwood Dr., Anchorage, Alaska 99518
Business Office: (907)-562-6805 Dispatch: (907)-929-9999

"Going Your Way 24 Hours a Day"

Your consideration in the needed changes to this bill will be greatly appreciated.

Sincerely, Dean Paul (Co- Owner of Alaska Yellow Cab)



February 23, 2007

Representative Max Gruenberg
House of Representatives
Alaska Legislature
State Capitol, Room 110
Juneau, AK 99801-1182

Re: SUPPORT: CS HB 88 (STA)

Dear Representative Gruenberg:

The recent explosion in popularity of television and LCD screens for both entertainment purposes as well as tracking automobile performance and navigation has created the need to reexamine the use of these devices in motor vehicles from a safety versus convenience perspective. RVIA believes that H.B. 88 provides a good balance between safety and convenience for the people of Alaska.

H.B. 88 takes into account the fact that RVs are used differently than other motor vehicles. Because RVs serve a dual purpose, they are designed to be both a motor vehicle and a temporary living facility. Occasionally, RV interiors are laid out with a television at the front of the coach. These televisions are used exclusively when the RV is parked and is serving as a temporary vacation home. Thus, RVIA supports the provisions of H.B. 88 that allow for televisions forward of the driver's seat so long as that TV is equipped with a device that renders the TV inoperable while the vehicle is under way. Again, H.B. 88 achieves the balance of safety while driving with convenience while parked on an RV vacation.

As I am sure you are aware, adventurous Americans who take RV vacations represent a large and important type of tourism in Alaska. RVers spent an estimated \$3.8 billion in local American communities from May through August of 2004 camping, visiting state and national parks, attending sporting events, visiting relatives and taking other forms of vacation while staying in their RVs. H.B. 88 allows for the boost to local economies that RV tourism brings.

RV enthusiasts were also pioneers in the global positioning satellite (GPS) phenomenon. RV manufacturers and dealers have been installing GPS in RVs for nearly 10 years and according to National Highway Traffic Safety Administration (NHTSA) Fatal Accident Reports (FARs) statistics, RVers have continued to be the safest drivers on the road during this time. GPS devices allow all drivers to reach their destination with more accuracy, efficiency and safety. H.B. 88 exempts GPS devices as well as screens that only report vehicle information such as miles per gallon being consumed and temperature in the cabin from prohibitions against video screens in the view of the driver.

The language contained in H.B. 88 has the enthusiastic support of RVIA and the entire RV industry. We urge swift passage of this good public policy which will make Alaska's roads safer and also make Alaskan RV vacations both safer and more convenient for the 30 million American RV owners and renters.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Wald", is written over a horizontal line.

Matt Wald

Director of Government Affairs

RECREATION VEHICLE INDUSTRY ASSOCIATION

Norman Cohen

From: Matt Wald [mwald@rvia.org]
Sent: Wednesday, February 28, 2007 10:17 AM
To: Norman Cohen
Subject: RE: RVIA support of HB 88

RVIA has reviewed and strongly supports CS HB 88 () Version K.



February 23, 2007

Representative Carl Gatto
House of Representatives
Alaska Legislature
State Capitol, Room 108
Juneau, AK 99801-1182

Chairman
J. MORTON, Jr.
Nissan

President
M. STANTON

Representative Max Gruenberg
House of Representatives
Alaska Legislature
State Capitol, Room 110
Juneau, AK 99801-1182

VEHICLE
MANUFACTURERS

- Aston Martin
- Ferrari/Maserati
- Honda
- Hyundai
- Isuzu
- Kia
- Mitsubishi
- Nissan
- Peugeot
- Renault
- Subaru
- Suzuki
- Toyota

AFFILIATES

- ADVICS
- Bosch
- Delphi
- Denso
- Hitachi
- JAMA
- Yazaki

Dear Representatives Gatto and Gruenberg:

Re: **SUPPORT: CS HB 88 (STA)**

I am writing on behalf of the Association of International Automobile Manufacturers, Inc., (AIAM) which is a trade association representing 14 motor vehicle manufacturers accounting for over 40 percent of all light duty vehicles produced annually in the United States.

AIAM members have invested over \$36 billion in U.S.-based production facilities, have a combined domestic production capacity of 3.7 million vehicles, directly employ over 95,000 Americans, and generate additional U.S. jobs in dealerships and supplier industries nationwide. AIAM members include Aston Martin, Ferrari, Honda, Hyundai, Isuzu, Kia, Maserati, Mitsubishi, Nissan, Peugeot, Renault, Subaru, Suzuki and Toyota. AIAM also represents original equipment suppliers and other automotive-related trade associations.

I am pleased to inform you that AIAM **supports** CS HB 88(STA) as approved by the House State Affairs Committee. This "screen device" bill will help prevent distracted driving while at the same time allowing drivers to use important technology like navigation systems, vehicle information displays and exterior view monitors which can assist drivers.

Please contact Michael Cammisa of my staff if you have further questions or need additional information about AIAM's position on CS HB 88(STA). Thank you for your consideration of AIAM's views.

Sincerely,

Michael J. Stanton
President & CEO

Norman Cohen

From: Michael X. Cammisa [MCammisa@AIAM.ORG]
Sent: Tuesday, February 27, 2007 1:19 PM
To: Norman Cohen
Subject: AIAM Supports CS HB 88 version K

Norman –

I reviewed version K of CS HB 88 that I received today via fax. AIAM does not object to the changes that have been made in comparison to CS HB 88 (STA) as approved by the House State Affairs Committee. Therefore AIAM supports version K of CS HB 88 for the same reasons as indicated in our letter of February 23, 2007 supporting CS HB 88 (STA).

If you need additional information or a more formal letter, please let me know.

Best regards,
Mike

*Michael Cammisa
Director, Safety
Association of International Automobile Manufacturers, Inc.
2111 Wilson Boulevard, Suite 1150
Arlington, Virginia 22201
703/247-2105 (direct)
703/525-7788 (main)*

2/27/2007



The Web Site of The Sacramento Bee

This story is taken from [Sacbee / News](#).

Laptop use while driving blamed for fatal crash

Bee Metro Staff -

Published 12:00 am PST Tuesday, February 27, 2007

A 28-year-old Chico man was killed Monday after he lost control of his car while working on his laptop computer while driving, according to the California Highway Patrol.

"We have reason to believe he was operating his laptop because it was still on and plugged into the cigarette lighter," said CHP Cmdr. Scott Silsbee.

Shortly after 8:35 a.m., the CHP received a report of a head-on crash on Highway 99 south of Yuba City between O'Banion Road and Highway 113.

The crash closed lanes in both directions for nearly two hours and traffic was diverted to alternate routes while a helicopter transported an injured couple to Rideout Hospital and work crews cleared the debris.

The name of the Chico man, who was driving a Toyota Corolla, was not released pending the notification of his relatives.

According to officers, Michael Layson and his wife, Christine, both 39, were southbound at the speed limit in their Hummer.

A driver of a southbound Honda told officers the northbound Toyota veered into his path and that he had to slow and swerve to avoid it. The Hummer, which was directly behind the Honda, slammed into the Toyota.

The Laysons, who live in Yuba City, were treated and released from the hospital with bumps and bruises, Silsbee said.

Go to: [Sacbee](#) / [Back to story](#)

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Phone: (916) 321-1000

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LEGISLATIVE RESEARCH REPORT

SEPTEMBER 20, 2004



REPORT NUMBER 05.011

STATE LAWS REGARDING TELEVISIONS, DVD PLAYERS, AND OTHER ELECTRONICS INSTALLED IN VEHICLES

PREPARED FOR REPRESENTATIVE LES GARA

BY CHERIE NIENHUIS, LEGISLATIVE ANALYST

You asked about DVD players in vehicles. Specifically, you asked about state or federal laws regarding the installation of DVD players in vehicles and the viewing of videos by drivers. You also requested information about how other states have resolved issues of illegal installation and viewing of video displaying devices in vehicles.

As you may know, the State of Alaska recently brought murder charges against a man who lost control of his vehicle and collided with another vehicle, killing both occupants.¹ The State sought the charge of second-degree murder because the driver was allegedly watching a video on his vehicle-installed DVD player when the accident occurred, a charge he denies. To be convicted of second-degree murder charges in this case, the State had to prove that the defendant "knowingly" engaged in conduct that caused another's death, and that such conduct displayed an "extreme indifference to the value of human life."² Although the jury ruled in favor of the defendant, the case drew nationwide attention as possibly the first of its kind—one in which serious criminal charges were filed against a driver whose attention was allegedly diverted from the road to a distracting electronic device—one of many such devices currently available for installation in automobiles.

Digital video disc (DVD) players join a growing list of electronic devices being modified for use in vehicles, causing concern that drivers are more distracted than ever before. Lawmakers in almost every state have considered bills to prohibit or modify the use of cellular phones while driving, but because there is still considerable debate as to whether talking on a cell phone is any more distracting than changing the dial on a car radio, few of the measures have passed. Regardless of the origin, distractions contribute to 25 percent of vehicle crashes each year—

¹ *State v. Petterson*, 3KN-03-00886CR, filed 5/12/2003. We include an MSNBC article describing the case as Attachment A.

² AS 11.41.110(a)(2); and Associated Press, "Alaska Crash Trial Focuses on DVD Player," FOXNews.com, July 27, 2004.

about 4,000 per day—reports the National Highway Traffic Safety Administration. Many lawmakers fear that the additional availability and affordability of in-vehicle electronic gadgets, such as TV monitors and DVD players, will exacerbate the distracted driving problem that already exists and result in higher accident rates.

STATE LAWS ON IN-VEHICLE TELEVISIONS, DISTRACTIONS

According to a list published in the *AAA Digest of Motor Laws 2004*, 37 states and the District of Columbia have laws or regulations that prohibit TV viewers, screens, or other such receiving equipment from being in a location visible to the driver.³ Section (a) of Alaska's regulation on in-vehicle TV equipment, 13 AAC 04.260, reads as follows:

A motor vehicle driven in this state may not be equipped with television-type receiving equipment located where the viewer or screen is visible from the driver's seat.

Section (c) of the code exempts equipment used for safety or law enforcement purposes, thereby allowing the use of Global Positioning System (GPS) and Loran systems for navigational purposes. This is a common exemption among states.

A violation of the above regulation, as well as of most such laws and regulations in other states, is generally treated like a minor traffic offense, and is punishable by a fine.

Many state laws, however, do not address other video displaying devices, such as DVD players. This was a distinction noted by attorneys in the criminal case, *State v. Petterson*, described above. Alaska law does not currently prohibit DVD players and other video displaying devices from being located within view of the driver's seat. The proliferation of in-vehicle devices has prompted state lawmakers to examine current laws and adapt them, if necessary, to the changing technological landscape. California and Texas are two states that have expanded their laws to include DVD players and other electronic devices; others, such as New York and Louisiana, have considered similar bills. We include copies of the California and Texas laws as Attachments C and D, respectively.

According to Matt Sundeen, Transportation Analyst, National Conference of State Legislatures, although Congress has held hearings on driver distraction issues, no federal laws currently target in-vehicle electronics of this nature.⁴

Some jurisdictions are choosing to strengthen and expand distracted driving laws; one such law is that enacted by the District of Columbia. The District's Distracted Driving Safety Act of 2004 now includes as distractions activities like reading, writing, performing personal grooming, and interacting with pets or unsecured cargo. A person found guilty of distracted driving in D.C. is fined \$100.⁵

³ We include a copy of the list as Attachment B.

⁴ Matt Sundeen can be reached at (303) 364-7700.

⁵ A15-311, the Distracted Driving Safety Act of 2004, is included as Attachment E.

INDUSTRY, CONSUMER, AND LAW ENFORCEMENT INTERESTS

Not surprisingly, the Consumer Electronics Association (CEA) opposes legislation that prohibits the installation or use of mobile video equipment. In its official policy statement, the CEA recommends that TV or video monitors that are placed in view of the driver be installed so that they will only function when the vehicle is in park or when the parking brake is applied. If the monitors are to function without application of the brake, or when the vehicle is in some other gear than park, the CEA recommends installation where they will not be visible to the driver.

Most monitors are equipped with the safety features noted by the CEA, and only function when the vehicle is in park or the parking brake is applied, in effect, preventing their operation when the car is moving. Sources point out, however, that the safety features are easy to bypass, and safety circumventions of this type are not uncommon in vehicles where consumers have installed the devices themselves.

Other in-vehicle electronic devices, such as those installed to aid in navigation, actually enhance driving safety because they lessen the dependence on maps and road signs for directions, industry and consumer groups maintain, leaving drivers free to concentrate on the road. Many state laws exempt such systems from the driver visibility prohibitions applied to other electronic equipment.

Despite the increased regulation, mobile electronics sales are booming. According to an article posted in the *Christian Science Monitor*, sales of in-vehicle DVD players in 2003 increased 50 percent from 2002 sales figures, with 180,000 of the devices sold at a price of \$2,000 to \$4,000 apiece.⁶ Industry representatives predict that in the future, drivers will not only be reminded electronically to pump the vehicle's tires and change the oil, but they will also be able to check real-time stock quotes and weather, all from a small dashboard screen.

Industry officials contend that there is no need to craft new legislation every time a mobile electronic device is introduced because most states already have distracted driving laws. Law enforcement personnel agree with this argument in theory, but point out that in practice, proving that a driver is distracted is very difficult. According to Captain Allen Storey, Alaska State Troopers, most people involved in car crashes do not volunteer details, such as that they were talking on their cell phone, when accidents occur.⁷ As such, the devices are easier to regulate than the behavior, Captain Storey notes.

Alaska Administrative Code could be amended to include prohibitions for the placement of DVD players and other in-vehicle entertainment devices, following proper administrative procedures. Captain Storey indicates that the State Troopers would recommend that motorists violating the regulation be fined. If, however, a driver causes an accident and is subsequently discovered to have violated the regulation, Captain Storey believes stiffer penalties should apply.

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

⁶ Eric C. Everts, "New Peril in Driver's Seat: Films on DVD," *Christian Science Monitor*, August 6, 2004. We include a copy of this article as Attachment F.

⁷ Captain Allen Storey can be reached at (907) 269-5682.

State of California Code regarding televisions and video monitors in motor vehicles

27602. (a) A person may not drive a motor **vehicle** if a television receiver, a **video** monitor, or a television or **video** screen, or any other, similar means of visually displaying a television broadcast or **video** signal that produces entertainment or business applications, is operating and is located in the motor **vehicle** at any point forward of the back of the driver's seat, or is operating and visible to the driver while driving the motor **vehicle**.

(b) Subdivision (a) does not apply to the following equipment when installed in a **vehicle**:

(1) A **vehicle** information display.

(2) A global positioning display.

(3) A mapping display.

(4) A visual display used to enhance or supplement the driver's view forward, behind, or to the sides of a motor **vehicle** for the purpose of maneuvering the **vehicle**.

(5) A television receiver, **video** monitor, television or **video** screen, or any other, similar means of visually displaying a television broadcast or **video** signal, if that equipment has an interlock device that, when the motor **vehicle** is driven, disables the equipment for all uses except as a visual display as described in paragraphs (1) to (4), inclusive.

(6) A mobile digital terminal installed in a **vehicle** owned or operated by an electrical corporation, as defined in Section 218 of the Public Utilities **Code**, a local publicly owned electric utility, as defined in Section 9604 of that **code**, a gas corporation, as defined in Section 222 of that **code**, or a telephone corporation, as defined in Section 234 of that **code**, if the mobile digital terminal is fitted with an opaque covering that does not allow the driver to view any part of the display while driving, even though the terminal may be operating.

(c) Subdivision (a) does not apply to a mobile digital terminal installed in an authorized emergency **vehicle** or to a motor **vehicle** providing emergency road service or roadside assistance.

(d) Subdivision (a) does not apply to a mobile digital terminal installed in a **vehicle** owned or operated by an electrical corporation, as defined in Section 218 of the Public Utilities **Code**, a local publicly owned electric utility, as defined in Section 9604 of that **code**, a gas corporation, as defined in Section 222 of that **code**, or a telephone corporation, as defined in Section 234 of that **code**, when the **vehicle** is deployed in an emergency to respond to an interruption or impending interruption of electrical, natural gas, or telephone service.

HB

90



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3004

Rep. Nancy Dahlstrom
Vice-Chairman
Room 409
(907) 465-3783

Rep. John Coghill
Room 214
(907) 465-3719

Rep. Bob Lynn
Room 104
(907) 465-4931

Rep. Ralph Samuels
Room 204
(907) 465-2095

Rep. Max Gruenberg
Room 110
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: April 16, 2007

To: Representative Kevin Meyer
Co-Chairman House Finance Committee

From: Representative Jay Ramras
Chairman House Judiciary Committee

Re: Referral File HB90

Attached please find the following documents to the Referral File for HB90:

- CSH 90(JUD) 25-LS0331\A
- House Judiciary Amendments 1-8
- Sponsor Statement
- House Judiciary Committee Report
- Fiscal Notes
 - LAW
 - ADM, PD
 - COR
 - COR
 - COR
 - ADM, OPA
- Sectional Analysis
- HB90 (25-LS0331\C)
- Support
- Applicable Statutes

ADOPT

Amendment #

1

By Rep. Samuels

**Offered in the House Judiciary Committee
To: CSHB90()**

Page 2, line 16
(A) sexual penetration;

Page 4, line 28
for court review; and

Page 5, line 1
spent in a [AN] private residence...

Page 6, line 5
Applications based on claim of ineffective assistance of counsel.

ADOPT

Amendment # 2
By Rep. Samuels

Offered in the House Judiciary Committee
To: CSHB90()

Page 3, after line 7
(4) hindering prosecution of murder;
Renumber accordingly

ADOPT

Amendment # 3
By Rep. Samuels

Offered in the House Judiciary Committee
To: CSHB90()

Page 3, line 16

(j)...unless the prosecuting authority stipulates otherwise or a defendant has been incarcerated for a period equal to the maximum sentence for the most serious charge for which the defendant is being held, a judicial officer may not...

ADOPT

Amendment # 4
By Rep. Samuels

Offered in the House Judiciary Committee
To: CSHB90()

Page 5, lines 3 and 4: delete all material and insert:

- (c) Period of probation, together with any extension, may not exceed
(1) except as provided in (2) of this section, 10 years;
(2) for a person convicted of a felony sex offense, 25 years.

ADOPT

Amendment # 5
By Rep. Samuels

Offered in the House Judiciary Committee
To: CSHB90()

Page 1, between lines 12 and 13

(a) A person commits the crime of violation by sex offender of condition of probation or parole if the person

(1) is on probation or parole for conviction of a sex offense;

(2) has served the entire term of incarceration imposed for conviction of the sex offense; and

(3) either

ADOPT

Amendment # 6
By Rep. Samuels

**Offered in the House Judiciary Committee
To: CSHB90()**

Page 4, line 24

(2) must be confined at all times to the grounds of the facility or be in the physical custody of an employee of the facility, except for court appearances or meetings with counsel;

ADOPT

25-LS0331K.2
Luckhaupt
4/13/07

AMENDMENT # 7

OFFERED IN THE HOUSE

BY REPRESENTATIVE RAMRAS

TO: CSHB 90(), Draft Version "K"

- 1 Page 4, line 28, following "review;":
- 2 ~~Insert "and"~~
- 3
- 4 Page 5, line 1:
- 5 ~~Delete "an"~~
- 6 ~~Insert "a"~~
- 7
- 8 Page 6, line 5, following "ineffective":
- 9 ~~Insert "assistance of"~~
- 10
- 11 Page 6, line 7:
- 12 Delete "applicant's attorney"
- 13 Insert "assistance the applicant's attorney provided"

This is duplicative of Amend # 1, except for
lines 11 - 13

ADOPT

25-LS0331/K.1
Luckhaupt
4/12/07

AMENDMENT # 8

OFFERED IN THE HOUSE

BY REPRESENTATIVE RAMRAS

TO: CSHB 90(), Draft Version "K"

1 Page 4, line 25, following "facility":

2 Insert "unless the person is at work or traveling to or from work" *as required*
by the treatment program and *as approved by the*
Court for credit.

This amendment is to follow Amendment # 6

Representative Ralph Samuels

Sponsor Statement CS for House Bill 90

“An Act relating to credit toward service of a sentence of imprisonment; relating to violation of probation and parole conditions by sex offenders; relating to bail; relating to distribution of certain materials to minors; relating to time limitations for prosecution of certain crimes; relating to sex offender registration; relating to the maximum time for probation; relating to certain post-conviction relief applications; relating to good time; and providing for an effective date.”

HB90 encompasses a wide variety of issues relating to our legal, correctional and public safety systems. Following are the specific changes:

1. Currently, there are very few tools law enforcement and public safety have in requiring that sex offenders, who are on probation or parole, comply with the conditions of their release. HB 90 will provide for a class A misdemeanor if a person violates certain conditions of their probation or parole.
2. Under current law, it is a crime to send indecent materials, if the materials depict minors, to minors. I believe that sending indecent materials to a minor whether or not the individuals depicted are underage or not, should be a crime. HB 90 does just this.
3. HB 90 allows for the forfeiture of property, such as computers used in committing electronic distribution of indecent materials to minors. This forfeiture could only occur after conviction.
4. Adding “attempt, solicitation, and conspiracy to commit murder” to the list of crimes for which the statute of limitations do not apply. Currently, the statute of limitations is just 5 years. With the addition of a cold case prosecutor, the department of law feels that they can successfully bring those who fall under this category to justice if the statute of limitations is lifted.
5. Currently, the courts are being asked to hold repeat bail review hearings based on little or no actual new information. The multiple bail review hearings are being used by defendants as a tactic to wear down an overburdened court system with repeat, inappropriate proposals to release a defendant.

HB 90 would require that the information offered supporting a subsequent bail review hearing actually be “new” information. It will help balance the constitutional right to bail with the constitutional right of victims to be treated with dignity, respect and fairness.
6. Under the premise that criminals should serve their sentenced time, HB 90 disallows credit toward a term of incarceration for time served while in a private residence, under

electronic monitoring or for certain treatment programs that are not similar to incarceration.

7. In 2006, the legislature adopted extended periods of probation, including a minimum of 15 years for felony sexual assault in the first degree, for felony sex offenders. HB 90 would change the maximum years of probation to 25, allowing for conformity to current law and to allow more flexibility in setting probation requirements.

8. Currently, persons convicted of electronic distribution of indecent material to minors do not have to register as sex offenders. HB 90 requires that persons convicted of this crime register as a sex offender.

9. In an effort to stem the abuse of post conviction relief, HB 90 requires that a person who brings an action for post-conviction relief, based on the claim that the person's attorney in a prior application for post-conviction relief was ineffective, must file the claim within one year after the court's denial of the prior application.

10. HB 90 provides that a prisoner may not be granted a good time deduction for any period spent in a treatment program, private residence, or under electronic monitoring. The good time deduction is to reward good behavior while incarcerated, and not in a home or similar place.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: CSHB090-LAW-CJL-3-23
 Bill Version: CSHB 90
 () Pub'ish Date: _____

Revision Date/Time (Note if correction): _____
 Title An Act relating to bail

Dept. Affected: Law
 RDU Criminal
 Component Criminal Justice Litigation

Sponsor REPRESENTATIVE(s) SAMUELS, STOLTZE
 Requester HOUSE JUDICIARY

Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See page 2.

Prepared by: Robert Meiners, Admin. Services Manager
 Division Administrative Services Division
 Approved by: Robert Meiners for Talis Colberg, Attorney General
 Agency Department of Law

Phone 465-5427
 Date/Time 3/23/07 12:07 PM
 Date 3/23/2007

FISCAL NOTE

**STATE OF ALASKA
2007 LEGISLATIVE SESSION**

BILL NO. CSHB 90

ANALYSIS CONTINUATION

The bill would adopt limits for bail hearings to be scheduled by defendants after the defendant has already had two bail hearings. It would require the defendant to submit new information that the defendant hadn't known about at the last bail hearing. It would also require seven days between bail hearings after the first two hearings, unless the prosecuting authority stipulates otherwise.

The bill would adopt several provisions that would help with the prosecution of sex offenders and the prevention of a sex offender from reoffending. For example, it makes it a class A misdemeanor for a sex offender on probation who is required to take periodic polygraphs to fail to do so. The polygraph is an important tool in monitoring sex offenders, and failure to submit may mean that the offender is reoffending.

The bill prohibits sending any indecent material to minors under the law prohibiting electronic distribution of indecent material to minors. It also requires persons convicted of this crime to register as sex offenders.

The bill adopts standards for when a court may grant credit against a term of incarceration for time spent in a treatment program.

It sets time limits on the filing of a second or subsequent application for post conviction relief if the application claims that the defendant was afforded ineffective assistance of counsel.

Passage of this legislation would not have a significant fiscal impact upon the Department of Law.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: CSHB090-DOA-PD-3-23-07
 Bill Version: CSHB (JUD K)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to credit towards service of a sentence RDU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Representatives Samuels and Stoltze
 Requester _____ Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 (FY2007) cost: _____ *

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill creates an additional Class A misdemeanor sex offense, requires subsequent bail proposals to be based upon new information not previously known or presented, defines the circumstances under which jail-time credit may be granted for court-ordered residential treatment, and extends the allowable length of probation from 10 to 25 years.

This bill may result in an increase in new cases and is expected to generate litigation. The fiscal impact of this legislation, however, can not be reliably predicted. The Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Quinlan Steiner, Director
 Division: Public Defender Agency
 Approved by: Rachael Petro, Deputy Commissioner
 Agency: Department of Administration

Phone (907) 334-4414
 Date/Time 3/27/07 10:00 a.m.
 Date 3/27/07 10:30am

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: CSHB90-DOC-A&O-IDO-
 Bill Version: CS HB90 (JUD)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title An Act relating to credit toward service of a RDU Administration and Operations
sentence of imprisonment: relating to violation of probation . . . Component Institution Director's Office
 Sponsor Representatives Samuels
 Requester House Judiciary Component No. 1381

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	*	*	*	*	*	*
Part-time	*	*	*	*	*	*
Temporary	*	*	*	*	*	*

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections anticipates a significant financial impact to the institutional facilities due to passage of this legislation; however, the fiscal impacts can not be determined at this time. Currently the department does not have the information to develop an accurate cost estimate. The department is conducting an analysis to develop preliminary fiscal impacts of this proposed legislation.

Prepared by: Sharleen Griffin, Director
 Division Administrative Services
 Approved by: Dwayne Peoples, Deputy Commissioner
 Agency Department of Corrections

Phone (907) 465-3339
 Date/Time 3/28/07 12:05 PM
 Date 3/28/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 90
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title An act relating to hail. RDU Administration and Operations
 Component Office of the Commissioner
 Sponsor Representative Samuels
 Requester House Judiciary Component No. 694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation should have no fiscal impact on the Department of Corrections.

Prepared by: Sharleen Griffin, Director
 Division Administrative Services
 Approved by: Dwyane Peoples, Deputy Commissioner
 Agency Department of Corrections

Phone (907) 465-3339
 Date/Time 1/31/07 1:24 PM
 Date 1/31/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: CSHB90-DOC-A&O-P&P
 Bill Version: CS HB90 (JUD)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Corrections

Title An Act relating to credit toward service of a sentence of imprisonment relating to violation of probation . . .

RDU Administration and Operations

Sponsor Representatives Samuels

Component Statewide Probation and Parole

Requester House Judiciary

Component No. 2826

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	*	*	*	*	*	*
Part-time	*	*	*	*	*	*
Temporary	*	*	*	*	*	*

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections anticipates a significant financial impact to probation and parole due to passage of this legislation; however, the fiscal impacts can not be determined at this time. Currently the department does not have the information to develop an accurate cost estimate. The department is conducting an analysis to develop preliminary fiscal impacts of this proposed legislation.

Prepared by: Sharleen Griffin, Director
 Division: Administrative Services
 Approved by: Dwayne Peoples, Deputy Commissioner
 Agency: Department of Corrections

Phone (907) 465-3339
 Date/Time 3/28/07 12:04 PM
 Date 3/28/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB090-DOA-OPA-2-7-07
 Bill Version: HB090
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to bail. RDU Legal and Advocacy Services
 Component Office of Public Advocacy
 Sponsor Reps Samuels, Stoltze, Hawker, Dahlstrom, et al.
 Requester _____ Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 (FY2007) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Analysis Continuation, Page Two.

Prepared by: Joshua Fink, Director
 Division: Office of Public Advocacy
 Approved by: Kevin Brooks, Deputy Commissioner
 Agency: Administration

Phone (907) 269-3501
 Date/Time 2/7/07 1:30 PM
 Date 2/9/2007

ANALYSIS CONTINUATION

This bill amends the bail statute to limit subsequent bail review hearings to those proposals that rely on new information, not previously considered by the court. Explicitly excluded from the definition of new information are (a) new or additional third-party custodian proposals unless the third-party becomes unavailable; (b) third-party proposals after three or more third-party proposals have been rejected; (c) an inability to obtain an appropriate third-party; (d) a monetary reduction after a third-party has been approved; (e) an inability to post the monetary bail; (f) the passage of time (including the amount of time that the defendant has been incarcerated); and (g) any information that could have been presented at a previous bail hearing.

The limitations created by this bill could lead to situations in which a defendant would be arguably held without bail. For example, a defendant charged with disorderly conduct or other B misdemeanor could be held in jail awaiting trial for a period that exceeds that maximum possible jail term, or a defendant with an appropriate third-party could be unable to obtain a hearing to propose the third-party. A defendant in such a case would be unable to obtain a ruling from the court. The Agency, accordingly, anticipates additional litigation: including appeals, habeas petitions, and claims of ineffective assistance of counsel.

The Agency can not predict the number of cases that will be affected by this bill or the precise litigation that would be generated and, therefore, submits an indeterminate fiscal note.

CS for HOUSE BILL 90
SECTIONAL ANALYSIS

Section 1 provides that it is a class A misdemeanor for a convicted sex offender, who is on probation or parole, to violate particular conditions of probation or parole. The probation conditions include the requirement that the offender submit to regular polygraph examinations, the offender participate in treatment specifically related to the offense, and a condition that the court finds is specifically related to the defendant's crime.

The parole conditions include participation in treatment or counseling, reporting to the person's parole officer, abiding in a particular geographic area, submitting to periodic polygraph examinations, refraining from particular risky behavior related to the parolee's offense or criminal history, and abiding by certain conditions for sex offenders who also have committed domestic violence.

Section 2 Under current law, a person commits the crime of electronic distribution of indecent material to minors if the person sends certain indecent material depicting minors. This provision would also prohibit a person from sending indecent material to minors that depicts adults.

Section 3 is a conforming amendment that would allow the forfeiture of property such as computers used in committing electronic distribution of indecent materials to minors. The forfeiture would occur only after conviction of the offense.

Section 4. Under current law a prosecution for murder and certain sex offenses may be brought at any time. This provision would add to those crimes that may be brought at any time the attempt, solicitation, and conspiracy to commit murder. The Department of Law has a cold case prosecutor who has been successful in bringing cold cases to trial, but has been hampered by the statute of limitations for attempt, solicitation, and conspiracy to commit murder, which under current law is five years.

Section 5 amends the law addressing when a person arrested for a crime may request a third and subsequent bail hearing. Current law requires the person to provide notice of new information that will be presented to justify a new hearing. The bill specifies that new information does not include the fact that the person cannot post the required bail, or other information that the person knew about but did not present at a previous hearing. The bill would also provide that seven days must elapse between third and subsequent bail hearings, unless the prosecuting authority stipulates otherwise.

Section 6 sets standards for when a court may grant credit toward a sentence of imprisonment for time spent in a treatment program. Credit may be given if the court has ordered the person to participate in the program as a condition of bail release or probation; the treatment program meets the standards set forth in the bill; and the director of the treatment program has informed the court that the person has participated and complied with the requirements of the program, has resided in the facility, and has abided by its rules.

The standards for granting credit toward a prison sentence require the program to be a residential facility that confines the person. The person must be subject to disciplinary sanctions for violating the facility's rules, and must be subject to immediate arrest without warrant for leaving the facility without permission.

A court may not grant credit against a prison sentence for time spent in a private residence or under electronic monitoring.

Section 7 changes the maximum period of probation from 10 to 25 years. In 2006, the legislature adopted extended periods of probation for sex offenders. This provision would conform the maximum period of probation in current law to these extended periods.

Section 8 requires a person convicted of electronic distribution of indecent material to minors to register as a sex offender.

Section 9 requires a person to bring an action for post-conviction relief, that is based on the claim that the person's attorney in a prior application for post-conviction relief was ineffective, within one year after the court's denial of the prior application for post-conviction relief is final.

Section 10 provides that a prisoner may not be granted a good time deduction for any period spent in a treatment program, a private residence, or under electronic monitoring.

Sections 11 and 12 include applicability provisions and an effective date of July 1, 2007.

From: Daniel Shorey
To: Bob Linton; John Novak; Sharon Marshall; Susan Parkes
Date: 12/19/2006 5:18:22 PM
Subject: More Judge Card bail

As we are (hopefully) tracking the court system's horrific record of releasing defendants. Here is another, State v. Cody Graham 3AN-06-11397 and 06-12606. The following is a truncated version of the 7 page pleading I filed with the court before today's bail hearing.

Following an argument on 16 October 2006, Cody Graham shot his girlfriend, Gretchen Waggood, in the back with a .357 revolver at their home in Eagle River. Ms. Waggood suffered a single gunshot wound to her upper left back, several broken ribs, a collapsed left lung and severe internal bleeding. Due to extensive live-saving medical care Ms. Waggood survived the shooting and was released from Alaska Regional Hospital on 24 October 2006.

On 6 November 2006, the first bail hearing was held and the district court approved Patricia Shipe as a third-party custodian but refused to lower the monetary bail or approve a second proposed third-party custodian, Timothy Joe Allen. At a second bail hearing on 14 November 2006, Superior Court Judge Larry Card lowered Cody Graham's bail to \$15,000 cash/corporate over the State's objection. Cody Graham posted bail and was released to Ms. Shipe's custody. Ms. Shipe and Mr. Graham were explicitly told that Mr. Graham was not to have any contact with Ms. Waggood and that there was to be no drug use.

So, there is the first time Judge Card made a huge mistake. Lowering bail after another judge had denied the request. No change in circumstances.

On 29 November 2006, APD Detective Jack Kleinsmith drove past Ms. Shipe's residence at 800 W. 56th Avenue #1 and observed the victim's car parked outside. Other officers arrived and were allowed entry by Patricia Shipe. Located inside Patricia Shipe's residence were Patricia Shipe, Ms. Waggood and Ms. Shipe's daughter, Josie Harvey. Defendant was no where to be found but the VICTIM was inside. Total bullshit.

Defendant and his TPC were arrested. Magistrate Shamberg set bail on the new misdo charges (unlawful contact) at \$50,000 cash + TPC.

Today, Judge Card lowered the bail to \$15,000 c/c on the shooting case and \$10,000 c/c on the unlawful contact case. He also approved THREE TPCs. The primary TPC lives here in town, the "relief" TPC for evenings also lives in town, and the weekend "relief" TPC lives in Palmer.

So now we'll never be able to track the Def's whereabouts. I spoke with Det Kleinsmith and we're trying to formulate a plan of attack. We anticipate Def will post the bond soon (tonight) but will have photos of everyone involved (including TPCs) out to patrol starting tomorrow including house checks.

I don't know what else to say.

Dan

From: John Novak
To: Keri Brady
Date: 1/24/2007 12:05:28 PM
Subject: Repeat Bail Proposal Legislation

The best poster child case as to which I am aware, and which I personally handled, is *State v. Thomas McElwain*, 3AN-S04-11843 CR. The case involved the defendant nearly running over with an automobile APD Ofc. Mark Laporte behind the Gaslight Bar at closing time. (The case eventually went to trial with the jury convicting the defendant as charged of multiple offenses, including felony assault.) Det. Laporte was working nights and had to interrupt his sleep for each of the six bail hearing conducted. There were no new circumstances for the bail hearings, only new pitches/proposals. When the defendant noticed up a seventh bail hearing, I filed an opposition memorandum pointing out that the defendant had not asserted any new circumstances and requested an order precluding the sought after bail hearing. Now retired Superior Court Judge Hensley denied my request via written order. (I have provided you the pleadings and order.) Det. Laporte would be a great person to have testify before the legislature.

Another case in which the defense was successful in getting the court to eventually rule that defendants are entitled to a unlimited number of bail hearings despite the recent legislation is the Anchorage Football stadium shooting case. I initially was successful in getting Judge Aarseth to issue an order precluding a bail hearing when the defendant failed to put anything in the blank for "new information." Shortly thereafter, Judge Aarseth went on military leave. I then was successful in getting Judge Suddock to rule that "new information" must be something more than a new pitch/proposal. Judge Suddock stated to rule other wise would allow all defendants an unlimited number of bail hearings and thereby render the newly enacted statute meaningless. Just when I thought we were looking good, Judge Aarseth came back from leave and ruled that his earlier ruling was limited to cases in which a defendant fails to list anything as "new information." Judge Aarseth made clear that a defendant is entitled to an unlimited number of bail hearings provided a new bail proposal/pitch is being made. It was at this point that I threw in my court towel and suggested that a legislative fix is needed. My suggestion is that the statute needs to again be amended to make clear that "new information" does not include a new bail pitch/proposal or the passage of time.

John

↑ In this case
the V became so
frustrated, he
finally quit
coming to BHs
/NAH

From: John Darnall <John_Darnall@law.state.ak.us>
To: <Keri_brady@law.state.ak.us>
Date: 1/24/2007 11:50:28 AM
Subject: Fwd: Re: Le, Dieu//More Bail Hrg Stuff

Attached is a bail hearing on Dieu Le. I had to dismiss a case on the day of trial because the victim passed away. She was an elderly lady (Florence Jackson) who Le bilked close to \$40,000 dollars out of. Trina Sears inherited one of the drug cases that I was working on involving Le before I moved to Prop. Her memo is attached.

This guy also got back out on EM after violating bail over our objections. He had four cases pending in the system at one time-- 3 Fraud and 1 Drug. We could not keep this guy in jail.

He was sent to Genesis House and violated rules and got kicked out too.

-JD

>>> Trina Sears 01/24/07 11:34 AM >>>

John,
Here's the bail memo. Can you add more info about subsequent bail hearings? He was allowed back out onto EM over our objections, etc.

Thanks,
Trina

>>> Patrice Southerland 01/24/07 11:31 AM >>>

Trina John wants to know if you have a copy of the bail memo that you did on Dieu Le. If you do please email John Darnall a copy ASAP.
Thanks!

To: File
From: Trina Sears
Re: Bail history
Defendant: Dieu Le

10/16/04 Defendant charged MICS 3 – initial arraignment. Bail was \$5000 cash.

11/16/04 Def indicted on MICS 4 (a witness was not available for grand jury). Bail continued \$5000 cash.

11/18/04 SCA – Judge would not lower bail at def's request because def has 4 prior felonies! Court denied request to lower bail. Judge Hensley.

12/21/04 BH. Defendant released to go to SAARP. NO objection by state at that time. No cash bail required at that time.

3/16/05 SAARP reports def kicked out for spitting on another resident. Def not complying with SAARP rules. Def. left SAARP 3/15 at approx. 6 a.m.

3/16/05 Def. showed up late. After argument by both sides, bail set at ZERO + CRC w/ passes.

4/7/05 BH. It appears from the file that bail set at \$5000 c/c w/ proof of employment OR def. could go to CRC w/ ZERO bail.

4/11/05 Def. committed felony theft. (arraigned 6/6/05 in district court). 05-4849CR

4/29/05 Def. committed felony theft.

5/5/05 Def. arraigned district court on felony theft & forgery charges. 05-3904CR

6/1/05 SCA. CRC proposal denied. Def. committed new crimes while on bail in this case.

6/24/05 BH. CRC approved w/ \$5000 c/c concurrent in all cases. Passes for court, atty, PO, med, and treatment.

7/14/05 BH. Genesis House approved. \$5000 c/c concurrent in 04-10358, 053904. \$10,000 c/c in 05-4849 already posted. See Order & Conditions of Release.

8/17 BH. Def. requests work passes. State opposes because def is contacting theft victims. Court wants more info on Genesis House monitoring of contact opportunities.

8/24/05 BH. Genesis House present and assures court. Work passes approved.

10/12/05 State re-indicted on MICS 3. We had witness to go forward on dealing charge.

10/24/05 BH. State's request. Def. misrepresenting his passes. He said he was going to work. He did not go to work on the day he said in his pass. Court does not remand. Sternly cautions defendant. Court notes this is not the first time defendant confused about his conditions.

11/7/05 BH. Genesis House discovered defendant lied about going to work (different than October incident). UA administered on 11/6 was positive for cocaine. Defendant confined to residence. Defendant walked away. Bench warrant \$15000 c/c + TPC concurrent in all three cases.

11/23/05 Defendant arraigned on BW.

8/16/06 – Richardson's neighbor and current TPC, Robin Meloy, called to report that Richardson had walked away. She also reported that Richardson and "Vangie" (Evangeline, his girlfriend) have been spending lots of time together.

Meloy called Richardson's Probation Officer, Dan Traxinger, and the DAO to report the violation. She should be relieved of her obligation.

I contacted Sid Billingslea to report the bail violation. She is only available telephonically today. PLEASE CALL HER AT 529-4039.

ASK FOR THE CURRENT BAIL TO BE FORFEIT AND NEW BAIL IMPOSED AT \$50,000 cash AND NEW TPC.

Richardson has violated prior bail releases (including a release to SAARP). In fact, the current robbery crime was committed while he was on TPC release (in a prior robbery case) to his foster mom, Emma Milcratus, a nurse at CIPT.

FYI – I called the approved work TPC, Hyo Zong, and Mr. Zong indicated that Richardson had not started working for him yet. Zong thought that a job might come open in 8-10 days and that Richardson would be working as a general laborer on a home construction project. I told Zong that Richardson might be remanded for walking away from the residential TPC that was previously approved.

From: Katholyn Runnels
To: Keri Brady
Date: 1/24/2007 11:47:13 AM
Subject: Your BH anecdote request

Keri -

The case that I was telling you about Alison is going to email you about - defendant's name was Logan McClellan. I have an additional anecdote that I thought would be helpful. Defendant's name: Michael Davis. Michael Davis charged with his third F.DUI in 12/04 and almost immediately released to his mother. He stayed that way until approximately a year later when I learned that she was a sham TPC for the year. In August of 05 Davis was arrested for DV assault on his girlfriend (and intoxicated without TPC) he was taken to jail, pled out and served approximately 30 days or so. No violation call from Mom (she is currently on BW status for the TPC charge). I talked with people at courthouse who all provided stories that Mom had been a sham. So defendant remanded January 06, like a week later defendant proposed another TPC (family member) which was denied. So a week or so after that defendant proposed another TPC (mother's sister) who was approved over State's objection. A month or so after that I get a call from an officer that they had received a call about defendant violating by being without TPC, drinking, and having weapons. Officers found defendant without TPC and arrested him on violation without any further investigation of violations. New bail set at 10,000 cash and EM. So shortly thereafter another bail hearing to reduce cash amount - ct. denied. Then another bail hearing to approve specific EM (approved) Defendant released on EM. Shortly after that in like April/May - defendant puts on for another bail hearing to reduce the UAs per week because can't afford (court denied) and within a week of that hearing defendant violated by having hot UA for cocaine and marijuana. When I set the bail hearing to have defendant remanded - he failed to appear and cut his ankle monitor that day, which his mom returned to the EM company the next day for her deposit. She has also requested the court return the 10000 that she posted. He was finally remanded to custody late June and stayed there until his trial in August.

Hope that help. Let me know if you need any additional information.

Kat

Jane Pierson

From: Emily Stancliff on behalf of Rep. Jay Ramras
Sent: Thursday, April 12, 2007 12:57 PM
To: Jane Pierson
Subject: FW: HB 90 Section 6 (d)

From: steve [mailto:schristopher@gci.net]
Sent: Thursday, April 12, 2007 12:49 PM
To: Rep. Jay Ramras
Cc: Rep. John Coghill; Rep. Lindsey Holmes; Rep. Bob Lynn; Rep. Nancy Dahlstrom; Rep. Ralph Samuels; Representative_Max_Gruenbrg@leg.s.state.ak.us
Subject: HB 90 Section 6 (d)

Dear Representative Ramras and Members of the House Judiciary,

This email is in regard to HB 90. As I stated to the committee during testimony; our concern is with Section 6. In specific, page 4, line 31 (d).

I would like to share with you the following:

- **The Alaska Monitoring Services Electronic Monitoring program (AKMS) is in no way reflective of a "dude ranch."** As a private company, we are held to a higher degree of accountability by the Courts, Prosecution, Defense Council and Community. If we don't perform to the degree expected of us, the courts do not refer individuals to us and we don't have a business. Our liability insurance is over \$50,000 per year without any claims filed. We can not afford to be lax in our programming. Additionally, the entire concept of Alaska Monitoring Services program is built upon individual responsibility. What this means is that the individual enrolled has to actively engage the poor behaviors and thinking errors that brought them to us. Make no mistake; being called to change behavior that has often taken them a lifetime to develop is no easy task. This is not a warehousing program. The end product here is for the individual to effect positive CHANGE in their life. Failure to achieve that results in education, increased supervision, sanctions and/or remand.
- **AKMS only accepts those on the EM program whose score is within an acceptable range for Community Corrections.** AKMS uses a modified risk assessment instrument that was developed and is used by the Ohio Department of Corrections. The risk assessment is based on the LSI-R instrument. *It does not matter the level of income or status a potential client possess; if he/she does not meet the scoring criteria they are not accepted.*
- **After the Risk Assessment, AKMS only accepts clients who are willing to comply with AKMS standards.** Most of our clients are lower to middle class; those who are on the verge of losing jobs, homes and family if they are not willing to look at the patterns and behaviors that got them into the situation they find themselves in. We screen for those who are willing to engage their beliefs and address the behaviors which historically have lead them to act inappropriately.
- **Because AKMS is a private company and held to higher degree of accountability, AKMS**

meets or exceeds DOC standards for Electronic Monitoring. Our clients are subjected to the same rules as the Alaska Department of Corrections (DOC) Electronic Monitoring Program. AKMS uses Active and Passive GPS monitoring to track clients in the community. We use Transdermal Alcohol Monitoring technology to determine alcohol consumption. When requested by the courts we can and do use the same equipment as DOC uses in their program. We conduct rigorous and truly random drug screenings. We conduct field visits. Our clients are required to meet weekly with his/her case agent. They are required to seek appropriate treatment and progress is followed.

- **AKMS is aware and has never suggested that Electronic Monitoring is equivalent to jail.** However, it is a long way from being "free." Our goal for the EM program is to provide structure and opportunity for skill acquisition and moral/social growth to occur. A large body of evidence supports the concept of cognitive behavioral programs outside of corrections facilities with significant reductions in overall recidivism.
- **AKMS is a valuable tool for the Courts.** AKMS provides the courts with multiple options that it can not get from the Department of Corrections. Being private, we can provide services in multiple capacities without the need for extensive personnel change or lengthy processes. Examples of this are Substance Abuse and Mental Health Treatment, fully staffed and supported drug and alcohol testing, vehicle monitoring and case management.

Additional Facts:

- Most AKMS clients are not "rich" and receiving special treatment. In fact, many of our clients of that status (rich), usually fail out of the program within 2 weeks because of an inherent conflict with a structure holding them personally accountable regardless of their economic standing. Most of AKMS' clients use our services to pay their dues in a way that allows them to continue to put food on the table for their families and continue to work and pay taxes.
- Our EM program is client (offender) funded. It is by design that an individual enrolled in our programs must be accountable for the cost. While it is accurate that a truly "indigent" population with problems similar to those we serve exists, we neither specifically exclude nor specifically serve them. We do suggest that one of the ways to escape the problems that many of these individuals face, is to get on with the business of life; including getting a job, taking care of their responsibilities and facing up to their problems rather than making the state, municipality or their families responsible for them. In return for their efforts, we offer skills training, mental health and substance abuse therapy, structure and general guidance to assist them in changing their lives for the better.
- AKMS uses the same program structure that was originated in the Wellness Court under Judge Jim Wannamaker. I know the program well as I was part of the team that developed it.
- AKMS' services reduces the impact on DOC and the Court System of high case loads. It allows for greater accountability from the client while addressing the issues and behaviors that put the client in his/her situation.

Finally, with the increased population rates that Alaska is experiencing, it is statistically safe to predict that crimes rates will rise as well. There is already a growing concern of the recidivism rate currently experienced by Alaska. With concern for the potential budget shortfalls the state is facing in the upcoming years; now is not the time to begin reducing options for the courts in finding a manageable solution to increasing criminal populations. As I write this email, we have received word of a repeated request from the courts in Valdez to provide services there.

I would also request the committee to take into consideration other state agencies that are using AKMS

services to assist in their operations. Office of Children Services and DOC in Palmer uses AKMS' drug testing services. The Division of Vocational Rehab in Fairbanks has a contract for services and the Therapeutic Courts statewide utilize AKMS services in several ways. The Alaska Court System uses our services as well and in cases where the court has determined that the client (defendant) has shown improvement and worked a program, it has awarded jail credit. It is no different than the Therapeutic Courts currently being used except for the fact that there is no cost to the State of Alaska.

As Representative Lynn has stated, economic disparity is nothing new and permeates our society. I would ask the committee to consider if it is prepared to build more prisons, hire staff or pay the costs for housing prisoners in other states in order to ensure the correctional system is "even."

I request that the members look at giving the courts more tools to work with rather than take tools away from a system that needs all the assistance it can get. Please remove item (d) line 31, page 4.

Respectfully,

Steve Christopher

From: Erin White
To: Keri Brady
Date: 1/24/2007 11:47:12 AM
Subject: Bail Issue

Keri,

Beth Bruckman is the defendant that I was telling you about. She has a PTR pending in her felony DUI case. In June of 06, she received a sentence of 24/20; 5 years probation. This is her first PTR. When PO Grist first filed the PTRP on December 24th, she noted that the defendant reported to her while intoxicated. Though she had a strong odor of alcohol, she denied drinking. When confronted, the defendant told PO Grist that she was allowed to drink. PO Grist showed the defendant a copy of the judgment, and the defendant responded with, "so I am going to jail for a clerical error." The defendant also had a vehicle key in her possession. As the defendant continued to deny that she had been drinking, PO Grist noted that she was a danger to the community and at a high risk to re-offend.

At her arraignment on 12/15, I asked for bail to be set at 10,000 c/c plus a CRC. The judge set bail at 1,000 c/c plus CRC. On Dec. 22nd, the defendant proposed her mother, Elizabeth Bruckman, and her husband, Patrick Fowler, as TPCs. I did not oppose them, but I asked for a 10K cash posting, based on PO Grist's remarks. The judge released her to the TPCs on a 1000 c/c bond.

On 1/19, the defendant violated again by showing up to treatment with a "strong odor" of alcohol about her. The defendant refused a breath test and asked that this not be reported to her PO. At her arraignment, the defense asked for the defendant to be returned to the same TPCs. I opposed the request and asked for bail to be set at 10K cash, with new TPCs or the CRC.

PD McGrady argued that the defendant said that she was simply using cough medicine. I told the judge what the treatment provider had said. The judge set a bail hearing for Thursday, due to the factual dispute. Yesterday afternoon, I called Lana Grist, and she said that she and the treatment provider will come to Thursday's hearing. Lana also told me that the defendant had admitted to drinking. Apparently, one of the TPCs was also drinking with the defendant! I've discovered this information to the defense.

Please let me know if you need more info. I'll keep my ears open for any other outrageous requests.
Thanks,

Erin

From: Michelle Tschumper
To: Keri Brady
Date: 1/24/2007 11:43:02 AM
Subject: Bail Hearings

Hi Kerri,

I had one this morning, where for the second time in a row the PD proposed a TPC that was a witness to the crime, and both were parents of one of the victims. They did not mention this, and I had to drag it out of the TPCs.

PD's routinely request bail reductions without giving a reason.

Judge Swidersky approved a TPC that was a girlfriend of the defendant and scheduled to GIVE BIRTH IN ONE WEEK. He was in on serious drug charges.

PDs automatically assume that getting a TPC approved warrants a reduction in bail, but as I see it, the higher amount was already required, even with a TPC, so that is not a reason to lower bail.

That's all I can think of for now.

Thanks!

Michelle

From: Aaron Sperbeck
To: Brady, Keri
Date: 1/24/2007 11:39:04 AM
Subject: Bail hrngs

Keri:

Trevon Owens / Statford Anderson (Election day shooters)
Judge Rhoades reduced their bail from \$50K cash to \$25K/c on the strength of TPC over strong objections by the vic and SOA (me). Within days of release and over the course of several days, APD observed the Defts to be without the TPC entirely, engaging in apparent drug activity and associating with known gang members, and associating with each other in violation of the court orders. Clearly shows an abuse of judicial discretion by the court and the fact that certain judges make consistently troublesome rulings.

Aaron D. Sperbeck
Assistant District Attorney
310 K Street, Suite 520
Anchorage, AK 99501
(907) 269-6346

Ralph - this is a
good example of
making it a
crime if def violates
bail condition of
having a gun.
(I like much better
than crime to drink
alc while on probation
MAH

From: John Darnall <John_Darnall@law.state.ak.us>
To: <Keri_brady@law.state.ak.us>
Date: 1/24/2007 12:27:10 PM
Subject: Hunt BH outline

** High Priority **

3AN-S05-5026 CR

6-10-05 DCA 20K cash + TPC
10-7-05 SCA Def wants no TPC (only EM w/ Active GPS, curfew, Drug Testing, work passes) State opposed. Ct orders bail remains.
11-18-05 Def proposes wife (EH) as TPC. Ct denies proposal.
4-4-06 Def proposes wife again. State objects and Court denies proposal.
4-18-06 Def proposes CRC in lieu of TPC and \$20K cash to \$50K c/c. Court approves CRC and reduces bail to \$10 K cash (Concurrent in all three cases).
6-8-06 Proposes 20K cash and new TPC (TH, not his wife). Court continues b/c TPC FTA.
7-11-06 Defendant Proposes new TPC (JD) Court denied proposal b/c TPC FTA
7-13-06 Defendant released to TPC. (not sure what happened here).
10-19-06 Defendant remanded because he was found drunk without TPC by Probation officer. BW issued 20 K cash + new TPC .
11-6-06 SCA Bail Increased to \$25 K cash + TPC (Defendant reoffended in Kotzebue during his BW status).

* All dates refer to bail hearings unless otherwise noted.

-JD

History of Bail Hearings in State v. Tamika Hedin:

10/15/05 – Bail was set at weekend arraignment at \$5000 cash + TPC; no contact with Jeff Hedin; defendant to stay 1000 feet away from Jeff Hedin's work and residence

10/28/05 – At Superior Court Arraignment, the defendant requests release to electronic monitoring with Alaska Monitoring Services. The Court denies this request, saying that defendant needs more supervision. The Court approves as an alternative \$5000 c/c and release to a CRC.

11/21/05 – Apparently CRC has not yet taken defendant. Proposes her mom as TPC – Elizabeth White. Elizabeth White is approved as TPC until CRC will take Hedin. All other bail conditions remain – no contact, not coming within 1000 feet, etc...

11/22/05 – Approved TPC Elizabeth White came in to meet with myself and Michal. She had not been able to go to the jail yet to pick up defendant, and defendant called her numerous times despite White's explanation that she could not easily get up there (White had a lot of physical disabilities). White says she does not want to be TPC anymore because she knows that defendant will not follow her rules and will do whatever she wants to do.

11/23/05 – We put on for bail hearing, and White reaffirmed that she does not want to be TPC. Bail is back to \$5000 c/c and a CRC, plus other conditions.

12/6/05 – Defendant proposes Elizabeth Melgoza, who lives on base at Fort Rich. At bail hearing, Melgoza says that she cannot be full-time TPC and that is what Court wants. Melgoza does not want to sign CRIMES notice. It is also unclear whether Fort Rich will let defendant back on base. Bail hearing continued.

12/19/05 – Bail hearing continued by defense. Defendant is not allowed on base at Fort Rich – they give us paperwork to that effect.

12/20/05 – Defendant is no longer proposing Elizabeth Melgoza; now proposing Elizabeth Dobosi. Dobosi has a pending DUI (believed to involve marijuana) with the muni. Defense won't agree to Dobosi being questioned as a potential TPC, given that she is being criminally prosecuted. Court denies proposal – reads to Hedin the notification from Fort Rich that she is not to go to or be on base there.

1/4/06 – Defendant proposes Samuel Davis as TPC. Davis is approved as full-time TPC; Ct. warns no alcohol, no contact with Jeff Hedin except as specifically related to divorce.

1/9/06 – Jeff Hedin calls myself and Michal. His truck was broken into while parked outside Al's Alaskan Inn during the weekend. He called police and they came out and made a report and took prints – can't tie to Hedin at this time, but she is suspected. Hedin later called Jeff Hedin and he made a video that recorded her voice – asked why he testified at grand jury and why he wasn't having the charges dropped.

We put on for bail hearing. Judge Hanley finds enough evidence as to the phone call, can't link truck break-in to Hedin at this point. Before the bail hearing, defendant is making a lot of noise, talking on her cell phone (without TPC monitoring her) in the gallery. A person unrelated to the case approaches afterward and tell Jeff he should be careful because she heard the defendant saying on her cell phone that she was going to have Jeff followed. Judge removes Samuel Davis as TPC and defendant remanded.

1/17/06 – Defendant proposes Elizabeth Melgoza and Jahmeca Blair as TPCs. Bail hearing gets continued because Blair has doctor's appointment.

1/18/06 – Blair is not at court. Defendant is saying that she has a crucial doctor's appointment (in her bail requests), but has not provided proof of that doctor's appointment. Bail hearing continued to 1/24/05.

1/25/06 – Defendant is now proposing Blair and Markie Freeman. Freeman is a victim in one of my robbery cases. Both TPCs are young – almost 10 years younger than the defendant. Court does not approve the TPCs – finds this is not strong enough situation for the defendant.

2/16/06 – Defendant proposes Tammy Hobson. Hobson is approved over State's objection. \$500 performance bond added to previous bail – no contact is the condition. No contact with Jeff Hedin and no going with ½ mile of his house.

3/16/06 – Another bail hearing on – defendant vacates the hearing.

3/20/06 – Defendant proposes adding Thelma Sparks as a TPC – approved with prior bail conditions and probation conditions remaining.

5/12/06 – Defendant wants to be released from TPC and allowed onto electronic monitoring – court denies this proposal.

Mid-June – Defendant agrees to plead open to criminal mischief, understanding that the State may assert non-Blakely aggs., and State will dismiss assault count. SCOP scheduled 6/30/06, will order pre-sentence report, and sentencing will be in 2-3 months. Defendant then puts this bail hearing on for electronic monitoring again.

Reasons to deny electronic monitoring – It does nothing to monitor whether the defendant attempts to contact the victim. The facts of this case are basically that the defendant gets the victim, Jeff, to meet her so that they can switch vehicles (after recently separating). The defendant gives Jeff a fake key to his vehicle (an SUV) and drives away in their other car. She comes back and takes out a knife and is using it to destroy the SUV. She then comes at him with the knife when he tries to stop her. She cuts through his sweater, but does get his skin. He calls 911, and she hits him and is biting him. He's just trying to stop her, and independent witnesses confirm this. She gets in the SUV and drives it away (actually just to the other side of the parking lot where he can't see). She uses some sort of bat or iron to break out the windows and beat further on the SUV. When the police arrest her after talking with she, Jeff, and independent

witnesses, she accuses the police of being racist.

Throughout this case, the defendant has been obsessed with the victim. She wrote him a letter, she's written letters to all sorts of people in our office, she posted an entry on a website she has trashing him, giving his personal contact info, and inciting people to try to get him. She has also been heard during a previous bail hearing saying that she was going to have him followed. There is an ongoing investigation into the death of Tamika and Jeff Hedin's baby – this happened before this case arose. Last I knew, Tamika was a primary suspect in that investigation. Also, the defendant has not been following through with probation conditions, has not been reporting to her PO, and actually ran from the PO's office one day when she was explicitly told to stay there. We just found this out from the probation office – they are considering filing an amended PTR. The defendant's probation officers don't trust her at all, and continue to request that the remainder of her time be imposed. Hedin is facing a presumptive term of two to four years on the criminal mischief charge, because of her prior felony.

Bernitz is saying that he wants the defendant out on EM because it will get her into a stable situation so that she can get custody of her son back. First, the Court should not consider this, because we do not know the truth about matters underlying any CINA or OCS-related cases. It may be in everyone's best interests to reunite Hedin and her son. It very well might not be. We don't know about this, and the Court shouldn't take a stand on it. My understanding is that there is that the powers that be are currently considering terminating Hedin's parental rights – and that might be the best outcome – we just can't make that decision in the context of this unrelated criminal case. Meanwhile, the defendant is making a bail proposal that was recently denied for a second time by Judge Aarseth. The victim IS in town and is opposed to the electronic monitoring proposal, and the proposal does nothing to monitor the defendant making contact with the V at a time where she knows she'll be on the line to serve a lot of time.

The defense is also doing this to try to get Nygren credit – they want to start storing up time while they await sentencing. If the judge is going to consider electronic monitoring, please be clear with the court that we are most concerned with the no contact order and that the defendant not be on base. The court does not need to order house arrest. We do not need the court to order restrictions that could be the basis of a request for Nygren credit. Aarseth has been clear in the past with other bail hearings that there were certain things he was ordering the EM company to monitor, and if they chose to monitor other things, that was up to them and not part of the court's order. Here the one thing we're most concerned about is something the EM company cannot monitor!

Minta Montalbo

From: Sydney Morgan
Sent: Thursday, April 12, 2007 10:20 AM
To: Minta Montalbo
Subject: FW: hb90

From: Steiner, Quinlan (Dept. of Admin) [mailto:quinlan_steiner@admin.state.ak.us]
Sent: Thursday, April 12, 2007 10:15 AM
To: Sydney Morgan
Subject: RE: hb90

Here is some suggested language that should address the concerns.

Section 5, Page 3, Line 16: "unless the prosecuting authority stipulates otherwise or a defendant has been incarcerated for a period equal to the maximum sentence for the most serious charge for which the defendant is being held, a judicial officer may not"

X Section 6, Page 4, Line 24: "must be confined at all time to the grounds of the facility or be in the physical custody of an employee of the facility, except for court appearances, meetings with counsel, and for work as required by the treatment program."

If you have any questions, let me know.

Quinlan Steiner
Public Defender
Alaska Public Defender Agency

From: Sydney Morgan [mailto:Sydney_Morgan@legis.state.ak.us]
Sent: Thursday, April 12, 2007 9:45 AM
To: Steiner, Quinlan (Dept. of Admin)
Subject: hb90

Quinlan,

I am just looking over my notes from the HB90 committee hearing - in addition to the bail portion, you mentioned that section 6 might cause some problems. The example you gave was that this section could potentially prohibit the resident of a treatment facility from meeting with their lawyer or attending a court proceeding. Perhaps when you are working on amendment language for the bail issue you could also try to tackle this issue.

Thanks for your help.

Sydney Morgan
Staff to Representative Ralph Samuels
(907) 465-6791

From: Daniel Shorey
To: Bob Linton; John Novak; Sharon Marshall; Susan Parkes
Date: 11/15/2006 1:12:22 PM
Subject: Re: More bail hearing

3
A different TPC, however, should not entitle you to reargue the bail amount. The dollar amount difference between posting \$25,000 cash and \$15,000c/c is immense and Card doesn't appear to understand the difference.

Also, I finally saw the file after bail hearing and there wasn't a different TPC proposed. That was withdrawn.

Daniel K. Shorey
Assistant District Attorney
State of Alaska, Department of Law
Anchorage District Attorney's Office
310 K Street, Suite 520
Anchorage, Alaska 99501
907-269-6300 (office)
907-269-6321 (fax)
907-269-6373 (direct)

>>> Susan Parkes 11/15/2006 1:06:22 PM >>>

2
As much as I hate the numerous bail hearings that derendants get, we need to be reasonable about what constitutes "new information" or a "change of circumstances". If someone's TPC asks to bow out or cannot handle the job, it seems to me that they should get a bail hearing to try and make a new pitch. In the hearings on this bill, the main complaint was that defendants would Judge shop the same proposal around - that should not be happening now. Also, the "he is still in jail" should not work either. But some true change - like new TPC - probably should get you a new hearing. Just my thoughts. susan

>>> John Novak 11/15/2006 12:58:55 PM >>>

I agree it is BS. Judge Card routinely is ignoring the 2005 statute.

>>> Daniel Shorey 11/15 12:44 PM >>>

John + Bob,

FYI.

I don't for sure if we're tracking these bogus bail hearing rulings or not, but here's one that Card screwed up royally.

1
I'm prosecuting Cody Graham for Assault 1 (shooting his GF in the back w/ a .357) and MIW3 (possession of a sawed-off shotgun). Def has no history but there were lots of drugs (misdo amounts), a grow operation, and signs of DV (broken doors and items in the house). Initial bail was \$25,000 cash + TPC. Def had a bail hearing in district court on 11-6-6. Ct approved a TPC and electronic monitory but refused to lower bail. Def was indicted. Def had bail hearing 11-14-6 w/ Judge Card and he approved a different TPC (apparently the other TPC couldn't do it), electronic monitoring and lowered the bail to \$15,000 c/c. There was no change in circumstances, the application for lower bail had been heard already + rejected (this argument was presented to Card by BH ADA).

Dan

Daniel K. Shorey
Assistant District Attorney
State of Alaska, Department of Law
Anchorage District Attorney's Office

HB

102



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3004

Rep. Nancy Dahlstrom
Vice-Chairman
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Rep. John Coghill
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Rep. Ralph Samuels
Room 204
(907) 465-2095

Rep. Max Gruenberg
Room 110
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: February 26, 2007

To: Representative John Coghill
Chairman House Rules Committee

From: Jane W. Pierson
House Judiciary Committee Aide

Re: HB102 Judiciary Referral File

Attached are the following documents for HB102

- HB102 (2⁵-LS0399\A)
- SPONSOR STATEMENT
- SECTIONAL
- FISCAL NOTES
 - 1) DMV – 0 FISCAL NOTE
 - 2) LAW – 0 FISCAL NOTE
 - 3) DPS – 0 FISCAL NOTE
- SUPPORT
 - 1) Alaska Association of Chiefs of Police – Resolution
 - 2) Public Safety Employees Association, Inc. – HB102 Position Paper
 - 3) DPS letter of support
- AS 28.35.185

REPRESENTATIVE
JOHN COGHILL
HOUSE RULES
COMMITTEE CHAIRMAN

During Interim: (June-Dec.)
3340 Badger Road
Suite 290
North Pole, Alaska 99705
(907) 488-5725
Fax (907) 488-4271

Alaska State Legislature



DISTRICT 11

During Session: (Jan.-May)
State Capito', Room 214
Juneau, Alaska 99801-1182
(907) 465-3719
Fax (907) 465-3258
1-877-465-3719

House of Representatives

SPONSOR STATEMENT

HB 102

"An Act relating to vacating lanes or slowing down for certain vehicles stopped along the side of a road."

This bill will provide greater protection to law enforcement and emergency personnel who are performing official duties on single lane or double lane highways by providing clear directives for drivers approaching emergency vehicles.

When the legislature originally passed this legislation the law stated that on a highway with two or more lanes in the same direction a driver approaching emergency vehicles performing official duties, the driver shall vacate the lane closest to the emergency vehicle or slow to a reasonable and prudent speed. The "or" clause made enforcement of this bill very difficult. Additionally the original law did not address driver responsibility when driving on a single lane highway.

This legislation changes the wording in order to compel drivers traveling on a highway with two or more lanes in the same direction to change lanes if possible in existing safety and traffic conditions. If it is not possible for the driver to change lanes they must slow to a reasonable and prudent speed. If the highway has less than two lanes the driver shall slow to a reasonable and prudent speed.

HB 102 clearly conveys, and now provides the clear language for enforcement, of the legislatures intent to provide maximum safety to law enforcement and emergency personnel performing official duties along our highways.

REPRESENTATIVE
JOHN COGHILL
HOUSE RULES
COMMITTEE CHAIRMAN

During Interim: (June-Dec.)
3340 Badger Road
Suite 290
North Pole, Alaska 99705
(907) 488-5725
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Alaska State Legislature



DISTRICT 11

During Session: (Jan.-May)
State Capitol, Room 214
Juneau, Alaska 99801-1162
(907) 465-3719
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House of Representatives

SECTIONAL

HB 102

"An Act relating to vacating lanes or slowing down for certain vehicles stopped along the side of a road."

Section 1: Overtaking and passing certain stationary vehicles(a)

(1)

(A) deletes the word SAFELY and adds if possible in the existing safety and traffic conditions which allows for the possibility that a driver may not be able to safely vacate the lane closest to emergency vehicles.

(B) adds a new subsection if a lane change under (A) of this paragraph would be impossible, prohibited by law, or unsafe, slow to a reasonable and prudent speed considering the traffic, roadway, and weather conditions; which directs a driver to slow to a reasonable and prudent speed if a lane change is not possible.

(2) with fewer than two lanes traveling in the same direction, address the action that a driver will take when coming upon emergency vehicles on a highway with fewer than two lanes.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 102
(H) Publish Date: 2/19/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title "An Act relating to vacating lanes or slowing down RDU Division of Motor Vehicles
for certain vehicles stopped...." Component Motor Vehicles
Sponsor Rep. Coghill Component No. 2348
Requester (H) TRA

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill does not impact the Division of Motor Vehicles.

Prepared by: Duane Bannock, director
Division: Motor Vehicles
Approved by: Kevin Eriks, Deputy Commissioner
Agency: Department of Administration

Phone 465-2200
Date/Time 2/10/2007 11:00am
Date 2/12/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 102
 (H) Publish Date: 2/19/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title An Act relating to passing stationary vehicles. RDU Criminal
 Component Criminal Justice Litigation
 Sponsor Representative Coghill
 Requester House Transportation Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2007) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill would require a driver to safely vacate the adjacent lane or slow to a reasonable speed when passing certain stationary vehicles being used to perform official duties. The bill would apply to tow-trucks as well as police, fire, emergency and animal control vehicles when the stationary vehicle is displaying flashing emergency lights. The department does not anticipate any significant fiscal impact.

Prepared by: Robert Meiners, Acting Director
 Division: Administrative Services Division
 Approved by: Robert Meiners for Talis Colberg, Attorney General
 Agency: Department of Law

Phone 465-5427
 Date/Time 2/13/07 10:27 AM
 Date 2/13/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: HB 102
 (H) Publish Date: 2/19/07

Revision Date/Time : _____ Dept. Affected: Public Safety
 Title An act relating to passing stationary vehicles RDU Alaska State Troopers
 Ccomponent AST Detachments
 Sponsor Representative Coghill
 Requester House Transportation Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill is an act relating to vacating lanes or slowing down for certain vehicles stopped along the side of a road.

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

Prepared by: Lt. Rodney Dial Phone 907-247-4480
 Division Division of Alaska State Troopers Date/Time 2/9/07 1600
 Approved by: Commissioner Walt Monegan Date 2/14/2007
 Agency Department of Public Safety

**ALASKA ASSOCIATION OF CHIEFS OF POLICE
RESOLUTION**

**A RESOLUTION URGING THE MEMBERS OF THE ALASKA STATE
LEGISLATURE TO AMEND THE WORDING OF A.S. 28.35.185, THE "MOVE OVER
LAW" SO AS TO SATISFY THE ORIGINAL INTENT OF THE STATUTE.**

WHEREAS, each year while conducting traffic-stops, police officers are needlessly injured and killed when struck by passing motorists; and

WHEREAS, the Alaska State Legislature recognized this danger in 2004, drafting and passing A.S. 28.35.185, the "move-over law;" and

WHEREAS, the members of the Alaska Association of Chiefs of Police believe that the *intent* of the Statute was to require motorists on multi-lane roadways to move over to the far lane when passing a stopped emergency vehicle, provided it is safe to do so; and

WHEREAS, the actual language of the Statute states:


- (1) with two or more lanes traveling in the same direction, unless otherwise directed by law enforcement or emergency personnel, shall safely vacate the lane closest to the emergency, fire, or law enforcement vehicle, or
- (2) unless otherwise directed by law enforcement or emergency personnel, shall slow to a reasonable and prudent speed considering the traffic, roadway, and weather conditions; and

WHEREAS, the use of the word "or," without any following qualifier, negates the mandate for a motorist to *ever* move over, should they simply decide not to do so;

NOW THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ALASKA ASSOCIATION OF CHIEFS OF POLICE, that:

The Alaska State Legislature is urged by our members to amend the wording of A.S. 28.35.185, section (2), as follows:

- (2) when traffic or other conditions make it unsafe to move over as directed in section (1), or unless otherwise directed by law enforcement or emergency personnel, the driver shall slow to a reasonable and prudent speed considering the traffic, roadway, and weather conditions.



**TOM CLEMONS, President
Alaska Association of Chiefs of Police**

ADOPTED: December 5, 2006

Public Safety Employees Association, Inc.
"Representing Alaska's Finest"

HB 102 Position Paper

The Public Safety Employees Association supports HB 102. The bill's goal is to correct a technical error in AS 28.35.195. The bill clarifies the requirement for motorists to vacate lanes or slow down when coming upon an accident. The bill promotes safety, encourages the most expedient flow of traffic, and protects public safety and emergency responders during highway emergencies or enforcement.

Accidents on our highways endanger more than the motorists involved in the accident, so expedient efforts to clear an accident and to slow traffic during a mishap prevents the further loss of property, life or injury.

HB 102 clarifies the intent of AS 28.35 to require motorists, when approaching either emergency or law enforcement vehicles performing official duties, to vacate the lane on highways with two or more lanes, and for motorists to slow to a reasonable and prudent speed on highways with fewer than two lanes. Requiring motorists to vacate a lane where an accident has occurred on multilane highways promotes safer driving conditions for motorists and provides a cushion in which emergency responders and law enforcement can more safely perform their duties. Requiring motorists to reduce speed on single lane highways, when approaching a scene where either law enforcement or emergency responders are working, is safer for motorists and for those performing their public safety duties and responsibilities.

HB 102 has the potential to save the lives of public safety officers conducting traffic stops, emergency personnel responding to accidents, tow truck operators working an accident, and fire fighters stabilizing an accident area.

We appreciate Representatives John Coghill and Nancy Dahlstrom for offering this technical change so that AS 28,35 achieves the purpose for which it was offered in 2004.

2/15/07



State of Alaska
Department of
Public Safety

Sarah Palin, Governor
Walt Monegan, Commissioner

February 22, 2007

The Honorable John Coghill
House of Representatives
Alaska State Capitol, Rm 214
Juneau, AK 99801-1182

Dear Representative Coghill:

Re: HB 102

The Alaska Department of Public Safety (DPS) supports HB 102. Currently, more than 30 states have laws similar to HB 102 that are referred to as move-over-laws, intended to help protect police officers, fire and other emergency responders as they perform their missions on our nation's crowded highways.

Thirty percent of all crashes occur as the result of another crash. Giving emergency responders plenty of room and clearing the road in the wake of a crash reduces the chance that another collision will occur. Additionally, for every minute a highway lane is closed, it takes an average of four additional minutes for traffic to recover.¹

Over the past ten years, four hundred seventy-one police officers nationwide have died in traffic related accidents, including one hundred forty-six who have been struck by vehicles.² Last year alone, thirteen law enforcement officers were struck and killed by passing vehicles while they worked outside their patrol cars.³

The Department of Public Safety supports the passage of HB 102 as a positive step in protecting those who protect the citizens of Alaska.

Sincerely,

Walt Monegan
Commissioner

¹ <http://www.gahighwaysafety.org/moveoverlaw.html>

² 2007 National Law Enforcement Officers Memorial

³ FBI traffic statistics

Office of the Commissioner
5700 E. Tudor Road - Anchorage, AK 99507 - Voice (907) 269-5088 - Fax (907) 269-4543
Juneau Office - Voice (907) 465-4322 - Fax (907) 465-4362

HB

109

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 7, 2007

FURTHER REFERRALS:

Date of Committee Action: 3/23/07

The JUDICIARY Committee considered:

HB 109

HOUSE BILL NO. 109

DISCLOSURES & ETHICS

"An Act relating to the requirement for candidates, groups, legislators, public officials, and other persons to submit reports electronically to the Alaska Public Offices Commission; relating to disclosures by legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and certain candidates for public office concerning services performed for compensation and concerning certain income, gifts, and other financial matters; requiring legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and municipal officers to make certain financial disclosures when they leave office; relating to insignificant ownership interest in a business and to gifts from lobbyists for purposes of the Alaska Executive Branch Ethics Act; relating to certain restrictions on employment after leaving state service for purposes of the Alaska Executive Branch Ethics Act; and providing for an effective date."

Recommends it be replaced with HCS or CS for HB109 (JDA)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts:
 ADM
 CED
 COR
 CRT
 EED
 DF
 DFG
 GOV
 HSS
 LWF
 LAW
 LEG
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
ADM				✓
LAW				✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Ermentberg				✓
	LYNN	X			
	Samuel			✓	
	SAMUELS	X			X n.p.
	Holmes				X
Chair:	ERMENTBERG	X			
Chair:					

Definitions:

HB 109 version 'O'

"**administrative action**" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by any state agency of any rule or regulation, or any other quasi-legislative or quasi-judicial action or proceeding whether or not governed by AS 44.62 (Administrative Procedure Act); "administrative action" does not include

(A) a proceeding or an action to determine the rights or duties of a person under existing statutes, regulations, or policies;

(B) the issuance, amendment, or revocation of a permit, license, or entitlement for use under existing statutes, regulations, or policies by the agency authorized to issue, amend, or revoke the permit, license, or entitlement for use;

(C) the enforcement of compliance with existing law or the imposition of sanctions for a violation of existing law;

(D) procurement activity, including the purchase or sale of property, goods, or services by the agency or the award of a grant contract;

(E) the issuance of, or ensuring compliance with, an opinion or activity related to a collective bargaining agreement including negotiating or enforcing the agreement; AS 24.45.171 (1).

"**administrative action**" means conduct related to the development, drafting, consideration, enactment, defeat, application, or interpretation of a rule, regulation, policy, or other action in a regulatory proceeding or a proceeding involving a license, permit, franchise, or entitlement for use; AS 24.60.990 (a)(1).

"**agency**" means a state department, division, commission, board, office, bureau, institution, corporation, authority, organization, committee, council or board in the executive branch, or independent of the executive branch, of state government; AS 24.45.171 (2).

"**anything of value**," "**benefit**," or "**thing of value**" includes all matters, whether tangible or intangible, that could reasonably be considered to be a material advantage, of material worth, use, or service to the person to whom it is conferred; the terms are intended to be interpreted broadly and encompass all matters that the recipient might find sufficiently desirable to do something in exchange for; "anything of value," "benefit," or "thing of value" does not include

(A) an item listed in AS 24.60.080 (c);

Definitions:

HB 109 version 'O'

(B) campaign contributions, pledges, political endorsements, support in a political campaign, or a promise of endorsement or support;

(C) contributions to a cause or organization, including a charity, made in response to a direct solicitation from a legislator or a person acting at the legislator's direction; or

(D) grants under AS 37.05.316 to named recipients; AS 24.60.990 (a)(2).

"assistant to the governor or the lieutenant governor" includes any executive, legislative, special, administrative, or press assistant to the governor or lieutenant governor, and any person similarly employed in a policy-making position; AS 39.50.200 (a)(1).

"benefit" means anything that is to a person's advantage or self-interest, or from which a person profits, regardless of the financial gain, including any dividend, pension, salary, acquisition, agreement to purchase, transfer of money, deposit, loan or loan guarantee, promise to pay, grant, contract, lease, money, goods, service, privilege, exemption, patronage, advantage, advancement, or anything of value; AS 39.52.960 (3).

"child" includes a biological child, an adoptive child, and a stepchild; AS 39.50.200 (a)(2).

"commission" means the Alaska Public Offices Commission; AS 24.45.171 (3).

"commission" means the Alaska Public Offices Commission created under AS 15.13.020 (a); AS 39.50.200 (a)(3).

"committee" means the Select Committee on Legislative Ethics and includes, when appropriate, the senate or house subcommittee; AS 24.60.990 (a)(3).

"communicate directly" means to speak with a legislator, legislative employee, or public official;

(A) by telephone;

(B) by two-way electronic communication; or

(C) in person; AS 24.45.171 (4)

Definitions:

HB 109 version 'O'

"**compensation**" means remuneration for personal services rendered, including salary, fees, commissions, bonuses, and similar payments, but does not include reimbursement for actual expenses incurred by a person; AS 24.60.990 (a)(4).

"**compensation**" means any money, thing of value, or economic benefit conferred on or received by a person in return for services rendered or to be rendered by the person for another; AS 39.52.960 (7).

"**contribution**" means a cash donation, a purchase such as the purchase of a ticket, the purchase of goods or services offered for sale at a fund-raising activity, or a donation of goods or services for the fund-raising activity; AS 15.13.040 (A).

"**designated supervisor**" or "**supervisor**" means

(A) the commissioner of each department in the executive branch, for public employees within the department;

(B) the president of the University of Alaska, for university employees;

(C) the attorney general, for the governor and lieutenant governor;

(D) the executive director of a board or commission for the staff of the board or commission;

(E) the chair or acting chair of the board or commission, for the members and the executive director of a board or commission; and

(F) the governor, for commissioners and for other public officers not included in (A) - (E) of this paragraph; or

(G) a public officer designated by a commissioner, the university president, or the governor to act as the supervisor if the name and position of the officer designated has been reported to the attorney general; AS 39.52.960 (8).

"**domestic partner**" means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage. AS 24.60.990 (a)(5).

"**domestic partner**" means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage; AS 39.60.200 (a)(4).

Definitions:

HB 109 version 'O'

"financial interest" means

(A) an interest held by a public officer or an immediate family member, which includes an involvement or ownership of an interest in a business, including a property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person has received or expects to receive a financial benefit;

(B) holding a position in a business, such as an officer, director, trustee, partner, employee, or the like, or holding a position of management; AS 39.52.960 (a)(9).

"fund-raising activity" means an activity, event, or sale of goods undertaken by a candidate, group, or nongroup entity ... which contributions are \$50 a person or less in amount or value. AS 15.13.040 (B).

"gift"

(A) means any payment to the extent that consideration of equal or greater value is not received;

(B) includes but is not limited to

(i) a loan, loan guarantee, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment except when full and adequate consideration is received;

(ii) the purchase of tickets for travel or for entertainment events; and

(iii) the granting of discounts or rebates for goods or services not extended to the public generally;

(C) does not include

(i) informational or promotional materials, including but not limited to books, reports, pamphlets, calendars, or periodicals; however, payments for travel or reimbursement for expenses may not be considered "informational material";

(ii) food and beverages consumed in places of public accommodation; AS 24.45.171 (5).

"immediate family" means the spouse and dependent children of an individual; AS 24.45.171 (6).

Definitions:

HB 109 version 'O'

"immediate family" means

(A) the spouse or domestic partner of the person; or

(B) a parent, child, including a stepchild and an adoptive child, and sibling of a person if the parent, child, or sibling resides with the person, is financially dependent on the person, or shares a substantial financial interest with the person; AS 24.60.990 (a)(6).

"immediate family member" means

(A) the spouse of the person;

(B) another person cohabiting with the person in a conjugal relationship that is not a legal marriage;

(C) a child, including a stepchild and an adoptive child, of the person;

(D) a parent, sibling, grandparent, aunt, or uncle of the person; and

(E) a parent or sibling of the person's spouse; AS 39.52.960 (a)(11).

"individual" means a natural person; AS 24.45.171 (7).

"influencing legislative or administrative action" means to communicate directly for the purpose of introducing, promoting, advocating, supporting, modifying, opposing, or delaying or seeking to do the same with respect to any legislative or administrative action; AS 24.45.171 (8).

"judicial officer" means a person appointed as a justice to the supreme court or as a judge to the court of appeals, superior court, district court, or magistrate court; AS 39.50.200 (a)(6).

"legislative action" means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, defeat, or rejection of any bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the legislature, or by a standing, interim, or special committee of the legislature, or by a member or employee of the legislature acting in an official capacity; it includes, but is not limited to, the action of the governor in approving or vetoing a bill or the action of the legislature in considering, overriding, or sustaining that veto and the action of the legislature in considering, confirming, or rejecting an executive appointment of the governor; AS 24.45.171 (9).

Definitions:

HB 109 version 'O'

"**legislative action**" means conduct relating to the development, drafting, consideration, sponsorship, enactment or defeat, support or opposition to or of a law, amendment, resolution, report, nomination, or other matter affected by legislative action or inaction; AS 24.60.990 (a)(9).

"**legislative director**" means the director of the legislative finance division, the legislative auditor, the director of the legislative research agency, the ombudsman, the victims' advocate, the executive director of the Legislative Affairs Agency, and the directors of the divisions within the Legislative Affairs Agency; AS 24.60.990 (a)(10).

"**legislative employee**" means a person, other than a legislator, who is compensated by the legislative branch in return for regular or substantial personal services, regardless of the person's pay level or technical status as a full-time or part-time employee, independent contractor, or consultant; it includes public members and staff of the committee; it does not include individuals who perform functions that are incidental to legislative functions, including security, messenger, maintenance, and print shop employees, and other employees designated by the committee; AS 24.60.990 (a)(11).

"**lobbyist**" means a person who

(A) is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through the person's agents with any public official for the purpose of influencing legislation or administrative action for more than 10 hours in any 30-day period in one calendar year; or

(B) represents oneself as engaging in the influencing of legislative or administrative action as a business, occupation, or profession; AS 24.45.171 (10).

"**lobbyist**" means a person who is required to register under AS 24.45.041 and is described under AS 24.45.171, but does not include a volunteer lobbyist described in AS 24.45.161 (a)(1) or a representational lobbyist as defined under regulations of the Alaska Public Offices Commission; AS 24 60.990 (a)(12).

"**municipal officer**" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission within a home rule or general law city or borough, or a unified municipality; AS 39.50.200 (a)(8).

Definitions:

HB 109 version 'O'

"official action" means a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction, by a public officer; AS 39.52.960 (a)(14).

"organization" includes a group, association, society, political party, or other entity made up of two or more persons, whether operated for profit or nonprofit; AS 39.52.960 (a)(15).

"payment" means the disbursement, distribution, transfer, loan, advance, deposit, gift, or other rendering or tendering of money, property, goods, or services or anything else of value; AS 24.45.171 (11).

"payment to influence legislative or administrative action" means any of the following:

(A) a direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing, retaining, or contracting for the services of the lobbyist separately or jointly with other persons;

(B) a payment in support of or assistance to a lobbyist or the lobbyist's activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(C) a payment that directly benefits a public official or a member of the immediate family of that official;

(D) a payment, including compensation, payment, or reimbursement for the services, time, or expenses of an employee for or in connection with direct communication with a public official;

(E) a payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official;

(F) a payment or reimbursement for expenses in the categories set out in AS 24.45.051(2); AS 24.45.171 (12).

"person", in addition to the terms set out in AS 01.10.060 includes a labor union; AS 24.45.171 (13).

(Sec. 01.10.060. Definitions. (a) In the laws of the state, unless the context otherwise requires, (8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;)

Definitions:

HB 109 version 'O'

"**personal interest**" means an interest held or involvement by a public officer, or the officer's immediate family member or parent, including membership, in any organization, whether fraternal, nonprofit, for profit, charitable, or political, from which, or as a result of which, a person or organization receives a benefit; AS 39.52.960 (a)(18).

"**personnel board**" or "**board**" means the personnel board established in AS 39.25.060; AS 39.52.960 (a)(19).

"**political action**" means conduct in which public officials, including legislators or legislative employees, use their official position or political contacts to exercise influence on state and local government employees or entities; it includes but is not limited to endorsing and pledging support or actively supporting a legislative matter, a nominee, or a candidate for public office; AS 24.60.990 (a)(13).

"**public employee**" or "**employee**" means a permanent, probationary, seasonal, temporary, provisional, or nonpermanent employee of an agency, whether in the classified, partially exempt, or exempt service; AS 39.52.960 (a)(20).

"**public officer**" or "**officer**" means

(A) a public employee;

(B) a member of a board or commission; and

(C) a state officer designated by the governor to act as trustee of the trust or a person to whom the trustee has delegated trust duties; in this paragraph, "trust" has the meaning given in AS 37.14.450; AS 39.52.960 (a)(21).

"**public official**" or "**public officer**" means a public official as defined in AS 39.50.200 (a), a member of the legislature, or a legislative director as defined in AS 24.60.990 (a); however, it does not include a judicial officer or an elected or appointed municipal officer. AS 24.45.171 (14).

"**public official**" means

(A) a judicial officer;

(B) the governor or the lieutenant governor;

(C) a person hired or appointed in a department in the executive branch as

(i) the head or deputy head of the department;

Definitions:

HB 109 version 'O'

- (ii) the director or deputy director of a division;
- (iii) a special assistant to the head of the department;
- (iv) a person serving as the legislative liaison for the department;
- (D) an assistant to the governor or the lieutenant governor;
- (E) the chair or a member of a state commission or board;
- (F) state investment officers and the state comptroller in the Department of Revenue;
- (G) the chief procurement officer appointed under AS 36.30.010;
- (H) the executive director of the Alaska Workforce Investment Board;
- (I) each appointed or elected municipal officer; and
- (J) the members of the board of trustees, the executive director, and the investment officers of the Alaska Permanent Fund Corporation; AS 39.50.200 (a)(9).

"registered lobbyist" means a person who is required to register under AS 24.45.041; AS 24.60.990 (a)(14).

"representation" means action taken on behalf of another, whether for compensation or not, including but not limited to telephone calls and meetings and appearances at proceedings or meetings; AS 24.60.990 (a)(15).

"source of income" means the entity for which service is performed or that is otherwise the origin of payment; if the person whose income is being reported is employed by another, the employer is the source of income; but if the person is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which the person, the person's spouse or domestic partner, or the person's dependent children, or a combination of them, hold a controlling interest, the "source" is the client or customer of the proprietorship, partnership, or corporation, but, if the entity that is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source.

(b) In this chapter "state commission or board" means the

(1) *[Repealed, Sec. 30 ch 81 SLA 2000]*.

Definitions:

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- (2) Alaska State Council on the Arts (AS 44.27.040);
- (3) Alcoholic Beverage Control Board (AS 04.06.010);
- (4) State Assessment Review Board (AS 43.56.040);
- (5) *[Repealed, Sec. 1 ch 54 SLA 1981].*
- (6) Board of Education and Early Development (AS 14.07.075);
- (7) Alaska Public Broadcasting Commission (AS 44.21.256);
- (8) Alaska Public Offices Commission (AS 15.13.020);
- (9) *[Repealed, Sec. 16 ch 61 SLA 1995].*
- (10) Alaska Commercial Fisheries Entry Commission (AS 16.43.020);
- (11) Fishermen's Fund Advisory and Appeals Council (AS 23.35.010);
- (12) *[Repealed, Sec. 140 ch 4 FSSLA 1992].*
- (13) State Commission for Human Rights (AS 18.80.010);
- (14) *[Repealed, Sec. 86 ch 59 SLA 1982].*
- (15) Alaska Judicial Council (art. IV, Sec. 8, Alaska Constitution);
- (16) Commission on Judicial Conduct (art. IV, Sec. 10, Alaska Constitution);
- (17) *[Repealed, Sec. 24 ch 22 SLA 2001].*
- (18) Local Boundary Commission (AS 44.33.810);
- (19) Occupational Safety and Health Review Board (AS 18.60.057);
- (20) Board of Parole (AS 33.16.020);
- (21) State Personnel Board (AS 39.25.060);
- (22) *[Repealed, Sec. 20 ch 110 SLA 1981].*
- (23) *[Repealed, Sec. 132 ch 9 FSSLA 2005].*

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- (24) Regulatory Commission of Alaska (AS 42.04.010);
- (25) University of Alaska Board of Regents (AS 14.40.120);
- (26) Alaska Royalty Oil and Gas Development Advisory Board (AS 38.06.020);
- (27), (28) *[Repealed, Sec. 86 ch 59 SLA 1982]*.
- (29) *[Repealed, Sec. 132 ch 9 FSSLA 2005]*.
- (30) *[Repealed, 1983 Initiative Proposal No. 2, Sec. 6]*.
- (31) Workers' Compensation Board (AS 23.30.005) and Workers' Compensation Appeals Commission (AS 23.30.007);
- (32) Alaska Commission on Postsecondary Education (AS 14.42.015);
- (33) Alaska Municipal Bond Bank Authority (AS 44.85.020);
- (34) *[Repealed, Sec. 1 ch 54 SLA 1981]*.
- (35) Alaska Medical Facility Authority (AS 18.26);
- (36) Alaska Oil and Gas Conservation Commission (AS 31.05);
- (37) Alaska Housing Finance Corporation (AS 18.56.010 - 18.56.900);
- (38) *[Repealed, Sec. 44 ch 24 SLA 2003]*.
- (39) *[Repealed, Sec. 4 ch 75 SLA 1979]*.
- (40) Board of Fisheries (AS 16.05.221(a));
- (41) Board of Game (AS 16.05.221(b));
- (42) Alaska Permanent Fund Corporation (AS 37.13.040);
- (43) *[Repealed, Sec. 69 ch 14 SLA 1987]*.
- (44) Alaska Seafood Marketing Institute (AS 16.51.010);
- (45) Council on Domestic Violence and Sexual Assault (AS 18.66.010);

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(46) *[Repealed, Sec. 27 ch 18 SLA 1993].*

(47) *[Repealed, Sec. 38 ch 168 SLA 1990].*

(48) *[Repealed, Sec. 16 ch 33 SLA 1996].*

(49) *[Repealed, Sec. 10 ch 29 SLA 1999].*

(50) *[Repealed, Sec. 9 E.O. No. 84 (1993)].*

(51) *[Repealed, Sec. 102 ch 21 SLA 2000].*

(52) *[Repealed, Sec. 10 ch 58 SLA 2006].*

(53) the board of directors and the executive director of the Alaska Aerospace Development Corporation (AS 14.40.821);

(54) Alaska Retirement Management Board (AS 37.10.210);

(55) Alaska Workforce Investment Board (AS 23.15.550);

(56) Board of Agriculture and Conservation (AS 03.09.010);

(57) the board of directors and chief executive officer of the Alaska Natural Gas Development Authority (AS 41.41.020);

(58) Big Game Commercial Services Board (AS 08.54.591). AS 39.50.200 (a)(10).

"source of income" means an entity for which service is performed for compensation or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, the employer is the source of income; if the person is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which the person, the person's spouse or child, or a combination of them, holds a controlling interest, the "source" is the client or customer of the proprietorship, partnership, or corporation; if the entity which is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source. AS 39.52.960 (22).

"state office" includes the office of governor, lieutenant governor, member of the legislature, or similar state office. AS 24.60.990 (a)(16).

Definitions:

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Sec. 39.90.020. »Nepotism« prohibited.

It is unlawful for a person who is the spouse of or is related by blood within and including the second degree of kindred to the executive head of a principal state department or agency to be employed in that department or agency.

HB109 Amendments (3/23/07)

HJUD No.	Legal Code	Amendment substance	Offered by	Offered	Adopted
1	Concep	P.2, L15 & 16 Sec. 2, AS 15.13.040(m) Contributions, expenditures, and supplying of services to be reported – (removes planning commissioner and utility board member)	APOC	3/20/07	Adopted
2	O.2	P. 5, L.19 Sec.6. AS 24.45.121 Spousal lobbying, (inadvertently left out of HSTA version)	Ramras	3/20/07	Adopted
3	Concep	P.5, L 16-19 Sec. 6. AS 24.25.121 Spousal lobbying; (Clarifies language)	Coghill	3/20/07	Adopted
4	Concep	Sec. 24.60.080 Gifts – (Clarifies that legislators and legislative employees may not receive gifts over the interim. Brings gift language into one statute)	Dahlstrom	3/20/07	Adopted
5	O.8	P. 13, L. 12 Sec 24.60.100 Representation	Gruenberg	3/20/07	Failed (2-5)
6	O.5	P. 14, L. 29 & 30 Sec. 18 Legislative Disclosure (Clean-up language re: what must be included in the final report)	Ramras	3/20/07	Withdrawn
7	O.9	P. 15, L 23 & 26 (Clean up language, changes “part” to “a member”)	Gruenberg	3/20/07	Adopted
8	Concep	P. 15, Sec. 20. AS 60.130(p) Select committee on legislative ethics. (Adds organizational between majority and caucus)	Ethics	3/20/07	Adopted
9	Concep	Sec 31. AS 39.50.030(b) Contents of statements (lowers the amount of reportable income from \$5,000 to \$1,000)	Coghill	3/21/07	Adopted 4-2
10	O.10	P. 23, L.1 & 6 - Sec. 31 Statements by public	Gruenberg	3/20/07	Adopted