

12198

HOUSE

JUDICIARY

Representative Max F. Gruenberg  
March 10, 2008  
Page 2

Corrective changes of this kind might have been proposed by a constitutional convention called to make changes to the state constitution. However, when, at ten-year intervals since 1970, the proposals have been presented to the voters as referenda under article XIII, section 3, the voters have repeatedly failed to approve calls for state constitutional conventions. The voters defeated the calls for constitutional conventions in each of the 1972, 1982, 1992, and 2002 general elections.

JBC:med  
08-168.med

Enclosure



## Alaska State Legislature

1970

Source:

SJR 2

SJR 2

### SENATE JOINT RESOLUTION

Proposing that the Constitution of the State of Alaska be amended by changing the name of the secretary of state to lieutenant governor.

#### BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. Secs. 7, 8, 9, 10, 11, 13, 14 and 15, Art. III, Constitution of the State of Alaska, are amended to read:

SECTION 7. There shall be a lieutenant governor. He shall have the same qualifications as the governor and serve for the same term. He shall perform such duties as may be prescribed by law and as may be delegated to him by the governor.

SECTION 8. The lieutenant governor shall be nominated in the manner provided by law for nominating candidates for other elective offices. In the general election the votes cast for a candidate for governor shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.

SECTION 9. In case of the temporary absence of the governor from office, the lieutenant governor shall serve as acting governor.

SECTION 10. If the governor-elect dies, resigns, or is disqualified, the lieutenant governor elected with him shall succeed to the office of governor for the full term. If the governor-elect fails to assume office for any other reason, the lieutenant governor elected with him shall serve as acting governor, and shall succeed to the office if the governor-elect does not assume his office within six months of the beginning of the term.

SECTION 11. In case of a vacancy in the office of governor for any reason, the lieutenant governor shall

succeed to the office for the remainder of the term.

SECTION 13. Provision shall be made by law for succession to the office of governor and for an acting governor in the event that the lieutenant governor is unable to succeed to the office or act as governor. No election of a lieutenant governor shall be held except at the time of electing a governor.

SECTION 14. When the lieutenant governor succeeds to the office of governor, he shall have the title, powers, duties, and emoluments of that office.

SECTION 15. The compensation of the governor and the lieutenant governor shall be prescribed by law and shall not be diminished during their term of office, unless by general law applying to all salaried officers of the State.

\* Sec. 2. Secs. 2, 3, 4, 5 and 6, Art. XI, Constitution of the State of Alaska, are amended to read:

SECTION 2. An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by not less than one hundred qualified voters as sponsors, and shall be filed with the lieutenant governor. If he finds it in proper form he shall so certify. Denial of certification shall be subject to judicial review.

SECTION 3. After certification of the application, a petition containing a summary of the subject matter shall be prepared by the lieutenant governor for circulation by the sponsors. If signed by qualified voters, equal in number to ten per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the State, it may be filed with the lieutenant governor.

SECTION 4. An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing. If, before the election, substantially the same measure has been enacted, the petition is void.

SECTION 5. A referendum petition may be filed only within ninety days after adjournment of the legislative session at which the act was passed. The lieutenant governor shall prepare a ballot title and proposition summarizing the act and shall place them on the ballot for the first statewide election held more than one hundred eighty days after adjournment of that session.

SECTION 6. If a majority of the votes cast on the proposition favor its adoption, the initiated measure is enacted. If a majority of the votes cast on the proposition favor the rejection of an act referred, it is rejected. The lieutenant governor shall certify the election returns. An initiated law becomes effective ninety days after certification, is not subject to veto, and may not be repealed by the legislature within two years of its effective date.

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It may be amended at any time. An act rejected by referendum is void thirty days after certification. Additional procedures for the initiative and referendum may be prescribed by law.

Sec. 3. Secs. 1 and 3, Art. XIII, Constitution of the State of Alaska, are amended to read:

SECTION 1. Amendments to this constitution may be proposed by a two-thirds vote of each house of the legislature. The lieutenant governor shall prepare a ballot title and proposition summarizing each proposed amendment, and shall place them on the ballot for the next statewide election. If a majority of the votes cast on the proposition favor the amendment, it shall be adopted. Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the lieutenant governor.

SECTION 3. If during any ten-year period a constitutional convention has not been held, the lieutenant governor shall place on the ballot for the next general election the question: "Shall there be a Constitutional Convention?" If a majority of the votes cast on the question are in the negative, the question need not be placed on the ballot until the end of the next ten-year period. If a majority of the votes cast on the question are in the affirmative, delegates to the convention shall be chosen at the next regular statewide election, unless the legislature provides for the election of the delegates at a special election. The lieutenant governor shall issue the call for the convention. Unless other provisions have been made by law, the call shall conform as nearly as possible to the act calling the Alaska Constitutional Convention of 1955, including, but not limited to, number of members, districts, election and certification of delegates, and submission and ratification of revisions and ordinances. The appropriation provisions of the call shall be self-executing and shall constitute a first claim on the state treasury.

Sec. 4. Sec. 9, Art. XV, Constitution of the State of Alaska, is amended to read:

SECTION 9. The first governor and lieutenant governor shall hold office for a term beginning with the day on which they assume office and ending at noon on the first Monday in December of the even-numbered year following the next presidential election. This term shall count as a full term for purposes of determining eligibility for re-election only if it is four years or more in duration.

Sec. 5. The amendments proposed by this resolution shall be placed before the voters of the state at the next statewide election in conformity with sec. 1, art. XIII, of the Constitution of the State of Alaska, and the state election code.







# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original documents after microfilm reproductions have been made.

*Steve Hubbard*

Signature of Camera Operator

*6-4-2009*

Date

**SB**

**8**



## 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 10, 2008

To: Representative John Coghill  
Chair House Rules Committee

From: Representative Jay Ramras  
Chair House Judiciary Committee

Re: Referral File for SB8 – MENTAL HEALTH PATIENT  
RIGHTS:STAFF GENDER

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Attached please find the following documents:

- Sponsor Statement
- CSSB8(FIN) 25-LS0101\M
- Sectional
- 0 Fiscal Notes COR & HSS
- CSSB8(JUD) 25-LS0101\C
- SB8 25-LS0101\A
- Bill History
- Letters of Support
- HJUD Committee Report

# Alaska State Legislature

Interim: (May - Dec.)  
716 W. 4<sup>th</sup> Ave  
Anchorage, AK 99501  
Phone: (907) 269-0144  
Fax: (907) 269-0148



Session: (Jan. - May)  
State Capitol, Suite 30  
Juneau, AK 99801-1182  
Phone: (907) 465-3822  
Fax: (907) 465-3756  
Toll free: (800) 770-3822

Senator Bettye Davis@legis.state.ak.us  
<http://www.akdemocrats.org>

## Senator Bettye Davis

### Senate Bill 8

**“An Act relating to a mental health patient’s right to choose the gender of hospital staff providing intimate care to the mental health patient and to the duties of hospital staff in caring for patients receiving mental health treatment.”**

### Sponsor Statement

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SB 8 requires that hospitals which provide psychiatric services must offer patients 18 years of age or older gender choice of staff for intimate care, and document in the patient record after “reasonable and good faith efforts to comply” a) failure to meet the patient’s request for gender choice, but provision of intimate care by a licensed professional, or b) failure to meet the patient’s request for gender choice, but provision of intimate care by a non-licensed professional. The bill further requires posting of the notice of the patient’s right of gender choice in intimate care situations.

More than half of these patients are reported to have been traumatized by sexual and/or physical abuse in the past and they are very sensitive to being touched or assisted by hospital staff who provide intimate care, because the experience may trigger from original abuse, feelings of fear, helplessness, distress, humiliation, and loss of trust in staff. While it is understandable that a hospital may not always be able to comply with a request of choice of gender in all situations due to staffing schedules and shortages on particular shifts or duty units, the bill requires, after a good faith effort, that the hospital document the noncompliance in the patient’s record. This information might otherwise be ignored or lost. The information is also useful for medical purposes in evaluating the effect on patient outcome, because individuals re-traumatized in this way are subject to chronic stress which can worsen serious mental illness and result in symptomatic relapses and repeated re-hospitalizations. Lastly, this bill will preserve information for inquiry during grievance procedures at mental health facilities under Title 47, which in the past have been described as unduly burdensome by some patients, and easily circumvented or limited because the language is too broad.

# LEGAL SERVICES

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

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


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

## MEMORANDUM

April 9, 2008

**SUBJECT:** Sectional Summary (CSSB 8(FIN); Work Order No. 25-LS0101\M)

**TO:** Senator Bettye Davis  
Attn: Tom Obermeyer

**FROM:** Jean M. Mischel   
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Establishes a right to staff choice for the provision of intimate care for patients 18 years of age or older who are receiving mental health treatment and intimate care at a hospital. Also requires certain actions of hospital staff to provide privacy and to accommodate staff choice except as otherwise described.

JMM:ljw  
08-220.ljw

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSSB 8(FIN)  
(S) Publish Date: 4/8/08

Identifier (file name): SB008CS(JUD)-DOC-OC-02-05-08 Dept Affected: Corrections  
Title "An act relating to a mental health patient's right to choose RDU Administration and Operations  
the gender of hospital staff providing intimate care ..." Component Office of the Commissioner  
Sponsor Senator's Davis, Ellis, Elton  
Requester Senate Judiciary Component Number 694

## Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	0.0	0.0	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	0.0	0.0
Contractual	0.0	0.0	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	0.0	0.0
Equipment	0.0	0.0	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	0.0	0.0
Grants & Claims	0.0	0.0	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	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts	0.0	0.0	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	0.0	0.0
1004 GF	0.0	0.0	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	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: 0.0

### POSITIONS

Full-time	0	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0	0
Temporary	0	0	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: Dwayne Peoples, Deputy Commissioner  
Department of Corrections

Phone: (907) 465-3339  
Date/Time: 12/20/07 1:55 PM  
Date: 12/20/2007

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSSB 8(FIN)  
 (S) Publish Dat: 4/8/08  
 Dept. Affected: Health & Social Services  
 RDU: Behavioral Health  
 Component: Alaska Psychiatric Institute

ID(File name) SB008CS(JUD)-DHSS-API-12-19-2007  
 Title: RIGHT OF PATIENTS TO CHOOSE GENDER OF HOSPITAL STAFF IN PSYCHIATRIC HOSPITALS

Sponsor: DAVIS  
 Requester: SENATE (FIN)  
 Component No.: 311

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

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

	Appropriation		Information						
	Required		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>									
Personal Services									
Travel									
Contractual									
Supplies									
Equipment									
Land & Structures									
Grants & Claims									
Miscellaneous									
<b>TOTAL OPERATING</b>			<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>									
<b>CHANGE IN REVENUES (0)</b>									

**FUND SOURCE (Thousands of Dollars)**

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1037 GF/Mental Health							
Other(Specify Type-do not abbreviate)							
Other(Specify Type-do not abbreviate)							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time							
Part-time							
Temporary							

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

This bill requires hospitals providing psychiatric services to proffer gender choice to patients requiring intimate care, and to document in the patient record, after "reasonable and good faith efforts to comply" a) failure to meet the patient's request for gender choice, but provision of intimate care by a licensed professional or b) failure to meet the patient's request for gender choice, but provision of intimate care by a non-licensed professional. Further, the bill would require posting of the notice of the patient's right of gender choice in intimate care situations.

The bill is congruent with the department's desire to accommodate the gender choice of patients, and to protect vulnerable populations from medically unnecessary invasions of privacy. Although there may be an increase in staff workload due to an increase in documentation, the effect is believed to be negligible and no fiscal impact is expected.

Prepared by: Melissa Witzler Stone, Director Phone 269-3410  
 Division: Behavioral Health Date/Time 11/27/2007  
 Approved by: Karleen Jackson, Commissioner Date 12/19/2007  
 Agency: Department of Health and Social Services

# STATE OF ALASKA

*Sarah Palin, GVERNOR*

## DEPT. OF HEALTH AND SOCIAL SERVICES

*Advisory Board on Alcoholism and Drug Abuse  
Alaska Mental Health Board*

*P.O. BOX 110608  
JUNEAU, AK 99811-0608  
PHONE: (907) 465-8920  
FAX: 465-4410*

April 16, 2007

Senator Bettye Davis, Chair  
Health, Education and Social Services Committee  
Alaska State Legislature

Dear Representative Davis:

Thank you for introducing SB 8, Mental Health Patient Rights: Staff Gender.

The Alaska Mental Health Board (AMHB) strongly supports the notion that patients in psychiatric hospitals should have the right to choose the gender of the person providing them intimate care. This type of choice will allow the individual to retain their dignity during a time of extreme distress and vulnerability, and will afford a modicum of choice and control in a fundamentally uncontrollable situation.

This bill has been criticized as "unnecessary" because hospitals should be allowed to handle this issue administratively through internal policies and procedures. The AMHB was instrumental in convincing API to promulgate such a policy, and applauds their efforts. But the Board believes a single, isolated policy is not sufficient to safeguard the rights of all individuals who find themselves in an acute psychiatric facility. Placing this provision into statute will ensure that patients in API and the State of Alaska's Designated Evaluation and Treatment beds, as well as those in private psychiatric facilities, will be afforded this basic right.

The AMHB is also sensitive to the argument that the bill's provisions will create a financial burden on psychiatric hospitals by forcing them to staff so as to have both genders available for patient care at all times. But the language found in the CS clearly provides a method for dealing with this issue – if the patient cannot be served by someone of the gender they choose, the hospital must simply document that a request was made and that it was not able to be honored. As such, this bill will not impact the "bottom line" for hospitals.

Finally, the bill offers a balance between the rights of the patient for privacy and choice and the physician's duty to provide sound and responsible care. If the treating psychiatrist determines that the choice made by the patient is not in the best interest of the patient's treatment, he or she may override a patient's choice.

The AMHB believes that putting gender choice into statute is the correct and responsible way to ensure that all psychiatric patients retain their basic dignity while being treated for acute or ongoing psychiatric disabilities. The Board urges all members of the Senate Health and Social Services Committee to support the bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Andrea Schmook".

Andrea Schmook, Chair,  
Alaska Mental Health Board

# ALASKA COUNSELING INC.

---

March 1, 2005

Faith Myers,  
Dorrance Collins  
330 E. 14<sup>th</sup> Ave., Apt E  
Anchorage, Alaska 99501

Re: Psychiatric Staff Gender Rights

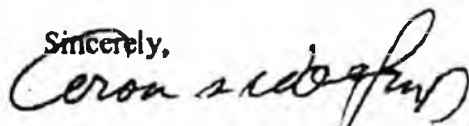
Dear Ms Myers and Mr. Collins,

I would very much support your efforts to amend AS47.30.840 to include a section acknowledging the right of Psychiatric patients to choose the gender of staff providing intimate care.

This is a very important issue as my Psychiatric inpatients already have significant issues with both sexuality and trust.

I believe that as a Physician this would be a significant step forward in providing the best and most therapeutic care for psychiatric patients throughout the State of Alaska. Please contact me if I can be of further assistance.

Sincerely,



Aron S. Wolf MD, MMD  
Distinguished Life Fellow American Psychiatry Association

Alaska Counseling, Inc.  
Parkway Professional Building II  
4120 Laurel St., Suite 102, Anchorage, Alaska 99508  
907.569.8600

Focused on Alaska kids and families • Treating behavioral & psychological problems • Continuing care after residential treatment  
*When you don't know where to turn . . .*

August 12, 2005

Faith Myers  
Dorrance Collins  
801 Airport Hts. #35  
Anchorage, AK 99508

Dear Ms. Myers and Mr. Collins,

I wholeheartedly support your efforts to amend AS47.30.840 to include a section acknowledging the right of psychiatric patients to choose the gender of staff providing intimate care. How sad that you and others have to fight for something that simple human respect and common sense would dictate should be done.

Recent empirical studies provide evidence that many common practices in psychiatric settings - such as those at issue here, cause patients chronic stress and put them at risk for iatrogenic psychiatric morbidity such as PTSD and Depression. They also very likely increase avoidance of helpful treatments.<sup>1</sup> Yet, it is often difficult to influence change in professional practice, or in established procedures. The medical dictum to "do no harm" frequently does not guide decision making.

Legislators often have good common sense. It should be clear to them for example that no one in their circle of family or friends would accept routinely being bathed, touched intimately, toileted etc. by someone of the opposite sex that they did not know.

But with patients in a psychiatric setting, the issue is much more serious. First, many psychiatric patients (51% - 98%) have histories of sexual and/or physical abuse.<sup>2,3,4</sup> This makes them especially vulnerable to "re-traumatization" by procedures such as being stripped, bathed, touched, and toileted by a staff of the same gender as their childhood perpetrator. Such a practice replicates and "triggers" feelings from the original abuse experiences and engenders feelings of fear, helplessness, distress, humiliation and loss of trust in staff.<sup>2</sup> When individuals are continually re-traumatized in this way, they are subject to chronic stress<sup>5</sup> which in turn worsens serious mental illness and results in symptom relapses and repeated re-hospitalization<sup>6,7,8,9</sup>.

Thank you for your efforts on behalf of persons with mental health issues. In this instance of unconscionable resistance to changing practices experienced as harmful by patients, the right to choose a preferred or same-sex provider must be legislatively mandated, and enforced.

Sincerely,



Ann F. Jennings, Ph.D.  
Trauma-Informed Systems Consultant  
The Anna Foundation  
21 Ocean Street  
Rockland, ME 04841

## References:

1. Mueser, K.T., Rosenberg, S.D. (2003) Treating the trauma of first episode psychosis: A PTSD perspective. *Journal of Mental Health*. 12, 2, 103-108
2. Cusack, K.J., Frueh, B.C., Hiers, T., Suffoletta-Maierle, S., and Bennett, S. (2003). Trauma within the psychiatric setting: A preliminary empirical report. *Administration and Policy in Mental Health*, 30, 453-460.
3. Mueser, K., Goodman, L.A., Trumbetta, S.L., Rosenberg, S.D., Osher, F.C., Vidaver, R., Auciello, P., & Foy, E.W. (1998). Trauma and posttraumatic stress disorder in severe mental illness. *Journal of Consulting and Clinical Psychology*, 66, 493-499.
4. Switzer, G.B., Dew, M.A., Thompson, K., Goycoolea, J.M., Derricott, T., & Mullins, S.D. (1999). Posttraumatic stress disorder and service utilization among urban mental health center clients. *Journal of Traumatic Stress*, 12, 25-39.
5. Mueser, K.T., Rosenberg, S.D., Goodman, L.A., Trumbetta, S.L. (2002). Trauma, PTSD, and the course of severe mental illness: an interactive model. *Schizophrenia Research* 53, 123-143
6. Bebbington, P., Knipers, I. (1992) .Life events and social factors. In: Kavanagh, D.J. (Ed). *Schizophrenia: An Overview and Practical Handbook* Chapman and Hall, London. 126-144
7. Butzlaff, R.L., Hooley, J.M. (1998). Expressed emotion and psychiatric relapse. *Archives of General Psychiatry* 55, 547-552
8. Goodwin, F.K., Jamison, K.R. (1990) *Manic-depressive illness*. Oxford University Press, New York.



December 22, 2004

Faith Myers  
Dorrance Collins  
330 E. 14<sup>th</sup> Ave., Apt. E  
Anchorage, Alaska 99501

Dear Faith and Dorrance:

I am in receipt of your letter wherein you request support from the Disability Law Center, Alaska's Protection and Advocacy agency for individuals with disabilities, in your efforts to secure "more rights" for patients at the Alaska Psychiatric Institute ["API"]. Specifically, you are advocating for a change in AS 47.30.840 that would, in effect, provide Alaskans undergoing mental health evaluation or treatment the right to choose the gender of the person providing them hands-on intimate care, such as toileting, bathing, diapering and dressing. You have asked the Disability Law Center to both confirm the legality of the requested statutory change and to voice support for your effort.

A review of statutory and judicial authority reveals a strong foundation of support for your legislative goal. In fact, securing the change in statute would not be bestowing 'more rights' onto patients, but would be a codification of an existing constitutional right that is not being acknowledged and protected. Based on this research, as well as common sense and decency, the Disability Law Center fully supports your effort.

It is clear that the State anticipates that some individuals admitted to API will require assistance with intimate care activities. The brief job description for a psychiatric nursing assistant that appears on the State's website describes the duties as follows:

*Assist patients in occupational, recreational, and industrial therapy and school programs. Assist patients with daily routine activities such as oral hygiene, preparing for meals, toileting, or preparing for bed. Help with feeding of patients unable to feed themselves.*

(Emphasis supplied). Acknowledging the need by some patients for this intimate assistance during a hospitalization, must these individuals submit themselves to care by a staff member of API's choosing, or do they have the right to choose the gender of the person viewing and touching their bodies? Do patients at API have a right to privacy?

Article I, Section 22 of the Constitution of Alaska provides that: "The right of the people to privacy is recognized and shall not be infringed." The specific enumeration of this right in Alaska's Constitution has been interpreted to

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NATIONAL  
ASSOCIATION OF  
PROTECTION &  
ADVOCACY  
SYSTEMS

mean that Alaska's right to privacy is broader than that afforded by the United States Constitution. *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

Federal courts have clearly enunciated that encompassed within the right to privacy is the right to shield one's unclothed body from view. As the Ninth Circuit Court of Appeals held over forty years ago, "We cannot conceive of a more basic subject of privacy than the naked body. The desire to shield one's unclothed figure from view of strangers, and particularly strangers of the opposite sex, is impelled by elementary self-respect and personal dignity. *Story v. York*, 324 F.2d 450, 455 (9<sup>th</sup> Cir. 1963).

Many of the cases discussing this aspect of the right to privacy arose in the context of employment discrimination complaints against correctional facilities. These facilities were sued for restricting the gender of certain guard positions, in part, to protect the privacy rights of prisoners. The courts have held that this right is not destroyed simply because one is institutionalized. *Turner v. Safley*, 482 U.S. 78, 84. (1987) ("Prison walls do not form a barrier separating prison inmates from the protections of the Constitution."); *Robino v. Iranon*, 145 F.3d 1109, 1111 (9<sup>th</sup> Cir. 1998) ("[A] person's interest in not being viewed unclothed by members of the opposite sex survives incarceration.")

Most people, however, have a special sense of privacy in their genitals, and involuntary exposure of them in the presence of people of the other sex may be especially demeaning and humiliating. When not reasonably necessary, that sort of degradation is not to be visited upon those confined in our prisons.

*Lee v. Downs*, 641 F.2d 1117, 1119 (4<sup>th</sup> Cir. 1981).

There are a few cases that address the employment of gender specific individuals in psychiatric hospitals. Courts have recognized that, unlike prison guards, hospital staff can infringe significantly on a patient's privacy rights. "Treatment assistants at a state psychiatric hospital intrude on patients' privacy by performing duties involving intimate personal care such as 'assisting patients with toileting, disrobing, showering and cleaning their genitals,' as well as stripping patients before placing them into restraints and conducting bed checks of patients who sleep naked or whose nightwear comes off during sleep. *Olsen v. Marriott International, Inc.*, 75 F. Supp.2d 1052, 1062 (Ariz. 1999) quoting *Jennings v. New York State Office of Mental Health*, 786 F. Supp. 376, 382 (S.D.N.Y. 1992).

Obviously most people would find it a greater intrusion of their dignity and privacy to have their naked bodies viewed (or any number of personal services performed) by a member of the opposite sex. Although there will be a certain relinquishment of privacy by necessity when anyone is admitted to a hospital or mental health facility, this is not to say that a patient has forfeited all rights to privacy.

*Local 567 American Federation of State, County & Municipal Employees v. Michigan Council 25, American Federation of State, County & Municipal Employees*, 635 F.Supp. 1010, 1013-14 (E.D. Mich. 1986) (footnote omitted).

The court in *Jennings* distinguished the privacy rights of patients from that of prisoners.

The patients at OMH are not convicted criminals but instead are there as a result of civil commitments. Thus, their right to privacy may not be abrogated by virtue of their confinement in a state-run facility unlike a prison inmate who has forfeited some rights in repayment to society. The patients at OMH are just that, patients. They are vulnerable and mentally ill. Basic decency demands that their privacy be respected to whatever degree feasible.

*Jennings v. New York State Office of Mental Health*, 786 F. Supp. At 384. The federal district court in Michigan held that not only should the psychiatric hospital respect the privacy rights of their patients, but should assist in protecting those rights.

It is obvious that the law recognizes the privacy rights of these patients or residents and that the defendants had the right to protect these rights, possibly even more so in the case of mental health patients who are far more reliant on the protection of the defendants than patients in hospitals. Moreover the failure to recognize their privacy rights is contrary to the concept of normalization which recognizes that mentally handicapped persons have a right to lives as close as possible to that which is typical for the general population.

*Local 567 American Federation of State, County & Municipal Employees v. Michigan Council 25, American Federation of State, County & Municipal Employees*, 635 F.Supp. at 1013. See also *Jennings v. New York State Office of Mental Health*, 786 F. Supp. at 383 ("[T]he fact that a person does not assert his or her constitutional right does not mean that state run facilities are still not obligated to respect these same rights.") "It would be a strange doctrine . . . that would decree that the sanctity of the right of privacy in the performance of the excretory functions, fully respected in a public restroom, is forfeited by the fact of falling ill and becoming hospitalized." *Local 567*, 635 F.Supp. at 1014.

Sensitivity towards the privacy rights of patients would also seem to further the treatment goals for many individuals. A large number of women and men have been sexually abused and live with the devastating aftermath of such experiences. Many with histories of maltreatment are extremely sensitive to issues of privacy and violation of their privacy. Early on in their lives their sense of body integrity was invaded by the behaviors of their perpetrators. Being exposed to the invasion of privacy while dressing, showering, or using the toilet can cause flashbacks in some individuals of prior abuse experiences. In others it can cause embarrassment and a sense of shame, even if they have no history of prior maltreatment. The need for a safe place where one is not exposed to the dominate

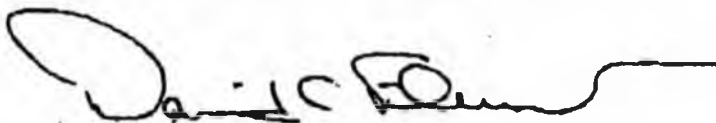
and submission process is imperative. The only way to make that possible is for people to have choices. Without choice there is a potential for the reenactment of trauma.

It is therefore possible that being viewed naked by staff of the opposite gender can cause significant harm to patients. A serious risk of harm violates the Eighth Amendment of the U.S. Constitution, even if no harm has yet occurred. *Farmer v. Brennan*, 511 U.S. 825 (1994); *Helling v. McKinney*, 509 U.S. 25 (1993).

For the reasons set forth above, the Disability Law Center of Alaska enthusiastically supports your efforts to protect the privacy rights of patients at API through the legislative process. Please do not hesitate to contact me if there is anything this agency can do to assist you with your advocacy.

Sincerely,

DISABILITY LAW CENTER OF ALASKA



David C. Fleurant  
Executive Director

cc Ron Adler



**NAMI Anchorage**

*Anchorage's Voice on  
Mental Illness*

There is hope.

Trish McDonald  
Executive Director

Yvonne Akai Evans  
President

Eileen Davey  
Vice President

Roger Branson  
Secretary

Alina Blasiak  
Treasurer

Geno Daly  
Member at Large

Pat Kouris  
Member at Large

Megan Wilts  
Member at Large

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P.O. Box 243308  
Anchorage, AK  
99524

Yvonne Akai Evans  
907.272.9962 direct

[yvon@gci.net](mailto:yvon@gci.net)

501 5 (c) non-profit  
corporation in  
Alaska since 1984

Faith Myers  
Dorrance Collins  
330 E. 14<sup>th</sup> Ave., Apt. E  
Anchorage, Alaska 99501

27 February 2005

Dear Faith and Dorrance:

We here at the National Alliance for the Mentally Ill, Anchorage Affiliate (NAMI-Anch) have received and support your request for psychiatric patients to have the ability, through existing law and the most basic of privacy rights, to request gender specific intimate care. We further feel that these rights need to be clearly enunciated and that an addition to AS 47.30.840 reflecting such is in order.

We concur with and support the position Disability Law Center has taken in their letter to you dated December 22, 2004 and support their further involvement in resolving this matter of extreme importance.

It is telling to us that we rarely hear of this issue in private facilities where patients and their families have the freedom and ability to select other service providers. We understand that public institutions operate on limited resources, however this most basic of human rights, the right to personal dignity, is one that cannot carry a price tag but must be provided for in public as well as private facilities.

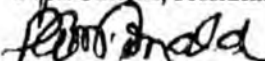
It is further troubling for us to realize that the staff making the majority of these decisions involving this most intimate of care are those who are the least trained. These staff members may well view their employment in the psychiatric care field as being transitory in nature and feel they have nothing or little to lose should a complaint regarding them be found to have merit. Our highest concern is that these individuals wield excessive physical and emotional power over these vulnerable persons and can too easily abuse the discretion given them to include suppressing complaints against them.

It is important to note that as State laws are currently being interpreted these basic rights to control who views and perhaps even touches our naked bodies may well be, and likely are being, violated without rising to the level of being a sexual assault or breaking any other laws. However, in this context, sexual assaults may well be, and quite possibly are being, committed with the vulnerable victim having little to no recourse, hope or even prayer of justice.

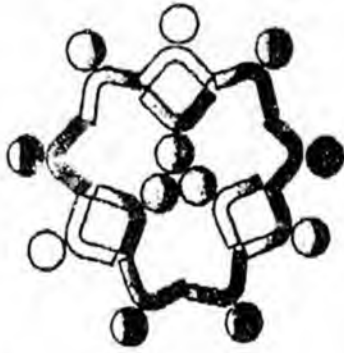
We urge our lawmakers to pass legislation which will protect individuals receiving this care.

Sincerely,

  
Yvonne Evans, President

  
Trish McDonald, Executive Director

Co Ron Adler  
David Fleurant



## **Alaska Mental Health Consumer Web**

**1248 Gambell St.  
Anchorage, ALASKA 99501**

**Phone: 907.222.2980  
Fax: 907.222.2981**

March 2, 2005

Faith Myers  
Dorrance Collins  
330 E. 14<sup>th</sup> Ave., Apt. E  
Anchorage, Alaska 99501

Dear Faith and Dorrance:

We at Alaska Mental Health Consumer Web would like to express our full support for your efforts to ensure the right of Alaskans undergoing mental health evaluation and treatment to choose the gender of their caregivers. Specifically, we wholeheartedly endorse the amendment of AS47.30.840 to include the right of Psychiatric patients to choose the gender of those that provide their care. It is our collective belief that this is not only a core human right, but also a matter of basic human dignity. For many years Alaskans have received care without regard to the gender of the provider. This practice has potentially violated the rights of thousands of Alaskan citizens and may have breached the boundaries of people who may have issues of sexuality and trust.

We again applaud your efforts and if I can be of further assistance please do not hesitate to contact me.

Sincerely,

Carl Ipock

Executive Director

Alaska Mental Health Consumer Web

# PsychRights

LAW PROJECT FOR

PSYCHIATRIC RIGHTS, INC.

408 G Street, Suite 206, Anchorage, Alaska 99501

(907) 274-7688 Phone - (907) 274-8493 Fax

<http://psychrights.org>

January 3, 2005

Faith Myers  
Dorrance Collins  
330 E. 14th Ave., Apt. E  
Anchorage, Alaska 99501

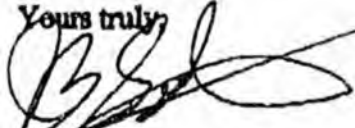
Re: Psychiatric Staff Gender Rights

Dear Ms. Myers and Mr. Collins:

The Law Project for Psychiatric Rights (PsychRights) unreservedly supports your efforts for legislative acknowledgment of the right for psychiatric patients to choose the gender of staff providing intimate care. We are outraged such a choice is not provided now. It is well known that many psychiatric patients (male as well as female) have been sexually assaulted or otherwise physically abused and that the failure to be sensitive to this issue is re-traumatizing and counter-therapeutic. Since the Alaska Psychiatric Institute is unwilling to recognize this and change its policy, a legislative directive is certainly in order.

PsychRights also concurs in the Disability Law Center's conclusion that Alaska patients already have such rights under the Alaska Constitution at least. If the 2005 Alaska Legislature fails to correct this outrage, I would encourage the Disability Law Center to pursue this through the courts.

Yours truly,



James B. (Jim) Gottstein, Esq.

cc: Ron Adler  
David Fleurant

**Testimony supporting Senate Bill 8 by Dorrance Collins—February 11, 2007**

Madam Chair, Committee members,

My name is Dorrance Collins. I support the passing of Senate Bill 8 as written.

Post traumatic stress disorder is one of the most prevalent and costly mental illnesses in America. Not giving gender choice of staff for intimate care in inpatient settings is traumatic to many psychiatric patients and can add to the illness.

In other states some psychiatric facilities take providing gender choice of staff for intimate care seriously. These facilities have policies that require the facility to schedule a portion of their work force by gender. As an example, if there are 5 male staff on one unit and 5 female staff on another unit, policy would require the head nurse, when scheduling, to see to it that there are sufficient men and women staff on each shift to provide gender choice.

Also, in the larger hospitals with multiple units—if the required gender is not available for intimate care, facility policy would require staff to go to the next unit to try and find the requested gender. Units are often just separated by a door.

These are all policies that we have been informed that the Alaska psychiatric hospitals and facilities will not adopt, even when it is pointed out that adopting such policies does not cost money and it reduces trauma.

In a recent Alaska Supreme Court decision, the justices stated there is a clear, unavoidable tension between hospitals seeking convenience/ economics and patient rights, which can manifest itself in patient abuse.

The justices saw it as a given that psychiatric hospitals and units were going to take shortcuts and would without regulation deny psychiatric patients their rights. It is laws passed by the legislature and action taken by the courts that will force psychiatric hospitals to do the right thing.

Almost without exception those patients entering an acute care psychiatric facility have dementia and trauma in their background. And to a lesser extent those patients entering evaluation facilities. Many have been victimized, some from childhood through adulthood. The percentage that has been sexually abused and physically abused is much higher than the rate in general society. When psychiatric patients are not given gender choice, they feel they are being re-victimized all over again.

As a civilized society, we can't leave psychiatric patient's protection up to guesswork. We need to pass statutes.

Passing Senate Bill 8 will give back to psychiatric patients' a small amount of dignity and control they lost when entering a psychiatric facility.

Senate Bill 8 only asks that psychiatric institutions make a good faith effort at providing gender choice of staff for intimate care. Adding more loopholes for psychiatric facilities to utilize will make the Bill useless.

In closing, I am asking you to pass Senate Bill 8 as written.

Thank you,

Dorrance Collins  
(907) 929-0532

*Dorrance Collins*

Sen. Bettye Davis  
Chair — HESS Committee

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Thank you,

Dorrance Collins  
(907) 929-0532

*Dorrance Collins*

Mr. Chair, Committee members,

My name is Faith Myers. I support the passing of Senate Bill 8 as written.

I have an avocation in Mental Health Advocacy. In the past I have been in acute care psychiatric facilities in Alaska, Washington and Nevada. Also, as an advocate, I have contacted psychiatric hospital administrators in Maine, Maryland, Nevada, Alaska and Washington looking for best practices.

There is such a thing as unnecessary traumatization of psychiatric patients in a psychiatric facility, especially in facilities in states that look for shortcuts. It is the rules and statutes of the state that reduce the amount of trauma and recidivism.

We fully understand the idea of a psychiatric emergency when gender choice may not be able to be provided—What we want to reduce is the unnecessary traumatization of a psychiatric patient who is reasonably cooperative.

The percentage of women in acute care psychiatric facilities who have a history of sexual abuse and/or physical abuse in their past is somewhere between 51% and 98% respectively. The figure for men is a little bit less. To a person with mental illness, it is certain he/she feels re-victimized when he / she is given intimate care against their will by the gender of the person who sexually abused him or her in the past.

There are 3 or 4 hospitals that do civil commitments, and there are numerous other ones that do 3 day evaluations that stretch out into 7 days. This issue cannot be dealt with by working to change each hospital's policy. Change needs to be done by state statute.

I would like to briefly explain the support letters in favor of a bill for gender choice of staff for intimate care. The following letters of support should have been provided to you.

1. Ann F. Jennings, PhD., Trauma-Informed Systems Consultant has background knowledge of trauma in acute-care psychiatric institutions. She also has a personal connection. Her daughter was in and out of psychiatric institutions from the age of 13 to 32 when her daughter committed suicide in a psychiatric institution.
2. Aron S. Wolf, MD, MMD. Dr. Wolf has over 30 years of experience in treating psychiatric patients from children to adults.
3. NAMI, Anchorage —Their Board members have personally been in psychiatric institutions and had family members in psychiatric institutions.

4. Alaska Mental Health Consumer Web— Their Board members also have a wide range of experience with psychiatric facilities.
5. The Alaska Mental Health Board, whose Board members are appointed by the Governor—again, their Board members have a wide range of experience in advocating for better treatment in psychiatric facilities.
6. Disability Law Center submitted a 4 page legal opinion, stating that gender choice of staff is a right that should be given to a civilly committed psychiatric patient.
7. Psychiatric Rights—an organization dedicated to furthering the rights of psychiatric patients—Psychiatric Rights also concurs with Disability Law's legal opinion that gender choice is a right of civilly committed psychiatric patients.

All told there are probably 50 or more Board members that voted that a gender choice of staff for intimate care bill should be passed, many of them experts in the field.

Senate Bill 8 only requires psychiatric institutions to make a good faith effort at giving gender choice of staff.

In closing, I am asking you to pass Senate Bill 8.

Thank you,

Faith Myers  
(907) 929-0532

*Faith Myers*

# Letters

require inpatient psychiatric facilities to make a good faith effort at providing patients receiving intimate care their choice of gender of staff performing that care. We believe if the bill does pass it would eventually carry over into senior care facilities.

The Alaska facilities we have surveyed do not schedule for gender. For example, if there are five men working on one shift at a facility and five women working on the other shift, all of the facilities we have surveyed do not have policies that require the nurse making up the work schedule to make an attempt to see to it there is proper gender on each shift to provide gender choice of staff for intimate care.

We fully understand not hiring for gender, but in Alaska they refuse to schedule the work force for gender.

Also, in larger facilities where there is more than one unit, there is no policy that requires staff to go to the next unit to get the requested gender to give someone a bath.

These are things that they do in other states and it doesn't cost money, but Alaska facilities we surveyed refused to do it.

Providing gender choice of staff for intimate

care reduces traumatization and passing Senate Bill 8 will force psychiatric institutions to write good gender choice policies.

**Faith Myers and Dorrance Collins**  
Anchorage

## We would like to hear from you

Send letters to the editor to Senior Voice, 325 E. Third Ave., Suite 300, Anchorage AK 99501. Maximum length is 250 words. Senior Voice reserves the right to edit for content and length.

Space may be made available for longer opinion piece essays up to 500 words. Please contact the managing editor at [seniorvoice@gci.net](mailto:seniorvoice@gci.net) to discuss this.

Copy deadline is the 15th of the month prior to publication.

Dear Editor,

We would like to make readers aware of Senate Bill 8, which when passed would

# PsychRights®

Law Project for  
Psychiatric Rights, Inc.

Alaska Legislature  
Alaska State Capitol  
Juneau, Alaska 99801

January 30, 2006

Re: Psychiatric Rights Legislation

This is to support the proposals by Faith Myers and Dorrance Collins to amend Alaska law to enhance certain rights given to people diagnosed with serious mental illness and held at inpatient facilities.

For example, the wording "patients must be given reasonable opportunity" gives some facilities license to deny patients the rights the statute is intended to ensure. Some facilities turn these rights on their head and make them "privileges." To address this, it is recommended that something like the following be added to AS 47.30.840:


At no time shall the rights set forth in this chapter be treated as privileges that the recipient must earn by meeting certain standards of behavior.

Of course these rights are meaningless if there is no effective enforcement process. It is therefore suggested that AS 47.30.847 be amended to specify a time limit in which grievances/complaints must be answered and that patients 18 and older have a right to appoint a representative of their choice to help them file and pursue grievances/complaints.<sup>1</sup> Such representatives should have the right to "reasonable access to all living and program areas and to staff involved in the treatment of the patient in order to assist the patient in the protection of his or her rights."

In addition the state Ombudsman or some other state oversight authority should have the right to go into any facility holding people because being diagnosed with mental illness. The Ombudsman's Office is presently excluded from all but state hospitals and would have to be granted a different authority to enter other facilities.

I have known Faith Myers and Dorrance Collins for a number of years and they are absolutely spot on with their suggestions. Alaska citizens deserve the type of consideration Faith and Dorrance are asking for and I urge you to act favorably upon their suggestions.

Yours truly,



James B. (Jim) Gottstein, Esq.

---

<sup>1</sup> For patients under 18, their guardian would retain that right.



January 30, 2006

Faith Myers  
Dorrance Collins  
330 E. 14<sup>th</sup> Ave., Apt. E  
Anchorage, Alaska 99501

Dear Faith and Dorrance:

You have requested a letter of support from the Disability Law Center of Alaska for your effort to revise the grievance rights of psychiatric patients in Alaska. In essence, your proposed revisions seek to ensure that psychiatric patients are afforded basic due process rights when filing a grievance.

The Disability Law Center of Alaska supports your efforts to ensure that psychiatric patients in Alaska are afforded basic due process rights. Your recommendations, including permitting psychiatric patients the right to obtain the assistance of a self-designated representative and establishing specific time frames for certain actions, are very appropriate means of assuring that rights can both be exercised and are protected.

Please let me know if there is anything we can do to assist you in this effort.

Sincerely,

DISABILITY LAW CENTER OF ALASKA

David C. Fleurant  
Executive Director

MEMBER OF THE  
NATIONAL  
ASSOCIATION OF  
PROTECTION &  
ADVOCACY  
SYSTEMS

**NAMI Anchorage**  
144 W. 5th Avenue  
Anchorage, AK 99501

Support For New Grievance  
Procedures

(907) 272-0227  
(phone and fax)

Tom

February 17, 2007

Alaska State Legislature  
Juneau, Alaska

RECEIVED  
FEB 20 2007

Re: Request for Amendment to AS 47.30.847  
Psychiatric Grievance Procedures

Honorable Senators and Representatives:

NAMI Anchorage provides support, education and advocacy to persons experiencing a mental illness and their families. This letter is about the grievance rights of patients in mental health facilities. Those rights are set out in broad terms in AS 4.30.847. See copy attached.

We have received reports that patients have been unduly burdened by hospital procedures in their efforts to bring grievances. For example, the facility may repeatedly require the patient to confer with members of the very same treatment team that have aggrieved the patient as a pre-condition to filing a formal grievance. It can be traumatizing to a patient to be required to seek redress from the same caregivers with whom the patient has a dispute.

It has also been reported to NAMI that patients are not always being provided a written statement of the grievance procedure upon admission to the facility. The ability of the patient or patient's representative to advocate for themselves requires knowledge of the "what" and "how" of the grievance procedure *prior* to treatment. NAMI believes that self-advocacy is one of the building blocks for real and lasting recovery.

These examples demonstrate that the due process rights of patients can be easily limited or circumvented because the language of AS 47.30.847 is too broad. The statute does not say precisely what the mental health facilities must do, giving them considerable latitude in interpreting the law and developing the grievance procedures as they wish. The statute needs to be amended to state the following specific requirements:

- the written grievance procedure will be provided to the patient at the time of admission.
- the patient's written complaint will be accepted and delivered to the "impartial body" required in subsection (a) without requirement of further consultation with or approval by the treatment team or other precondition.
- the patient will be allowed the assistance of a self-designated representative and will not be limited to a representative as defined by the facility.
- the complaint will be addressed and resolved within specific time frames to be set out in the amended statute.

*Anchorage's Voice on Mental Illness*

NAMI Anchorage is the Local Affiliate of the National Alliance on Mental Illness

Additional specific provisions may be required as investigation continues. NAMI Anchorage is prepared to assist in this important revision process as requested. In the meantime, we ask the legislators and the administrators of mental health facilities to bear in mind the trauma that hospitalization by itself causes a patient, on top of the underlying problem resulting in the hospitalization. In such a situation, the balancing of administrative inconvenience with the health and welfare of the patient should weigh in favor of the patient.

Thank you for this opportunity to comment.

NAMI Anchorage

*Pat Kouris / by Harbour*

Pat Kouris

President, NAMI Anchorage Board of Directors

attachment: AS 47.30.847

cc: Representative Sharon Cissna  
James B. Gottstein, Esq.  
Faith Myers and Dorrance Collins  
David Fleurant, Disability Law Center



## Facsimile Cover Sheet

To: Representative  
Jay Ramras  
Company: Alaska Legislature  
Phone:  
Fax: (907)465-2070

From: Holly Johanknecht  
Company: Disability Law Center  
Phone: (907) 565-1002  
Fax: (907) 565-1000

Date: April 10, 2008  
Pages including this 3  
cover page:

### CONFIDENTIAL

*This facsimile contains confidential information. This FAX is to be reviewed initially by only the individual or entity to whom it is addressed. If the reader of this Transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this FAX, or the information contained herein, is prohibited. If you have received this FAX in error, please call us (collect) immediately at 907-565-1002, and return this FAX by mail to Disability Law Center of Alaska, 3330 Arctic Blvd., Ste. 103. Anchorage, Alaska 99503. Thank you.*

Comments:

MEMBER OF THE  
NATIONAL  
DISABILITY  
RIGHTS  
NETWORK

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 9, 2008

FURTHER REFERRALS:

Date of Committee Action: April 10, 2008

The JUDICIARY Committee considered:

CSSB 8(FIN)

CS FOR SENATE BILL NO. 8(FIN)

MENTAL HEALTH PATIENT RIGHTS:STAFF GENDER

"An Act relating to a mental health patient's right to choose the gender of hospital staff providing intimate care to the mental health patient and to the duties of hospital staff in caring for patients receiving mental health treatment."

Recommends it be replaced with  HCS or  CS for \_\_\_\_\_ (\_\_\_\_\_)

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  
 DEC  
 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
HSS	4			✓
COR	3			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Gregory	✓			
	Lynn			X	
	Gosholt	✓			
	[unclear]			X	
	Samuel			X	
	Holmes	X			
Chair:	RAMRAS			X	
Chair:	[unclear]				

**SB**

**45**

AMENDMENT #1

OFFERED IN THE SENATE  
TO: SB 45

BY: *Rauras*

1 Page 1, following line 2:

2 Insert a new bill section to read:

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

5 SHORT TITLE. This Act may be known as the Sonya Ivanoff Act."  
6

7 Page 1, line 3:

8 Delete "Section 1"

9 Insert "Sec. 2"

10

11 Renumber the following bill section accordingly.  
12

13 Page 2, line 13:

14 Delete "Section 1"

15 Insert "Section 2"

# Alaska State Legislature

Out of Session:  
Legislative Information Office  
P.O. Box 1630  
Nome, AK 99762-1630  
(907) 443-5555  
(907) 443-2162 (Fax)

In Session:  
State Capitol  
Juneau, AK 99801-1182  
(800) 597-3707  
(907) 465-3707  
(907) 465-4821 (Fax)

## SENATOR DONALD C. OLSON

### DISTRICT T

Alakanuk  
Ambler  
Anaktuvuk Pass  
Atkasuk  
Barrow  
Brovig Mission  
Browerville  
Buckland  
Chevak  
Deering  
Diomedea  
Elim  
Emmonak  
Gambell  
Golovin  
Hooper Bay  
Kaktovik  
Kiana  
Kivalina  
Kobuk  
Kotlik  
Kotzebue  
Koyak  
Mountain Village  
Noatak  
Nome  
Noorvik  
Nuiqsut  
Nunam Iqua  
Pilot Station  
Pitka's Point  
Point Hope  
Point Lay  
Savoonga  
Scammon Bay  
Selawik  
Siaktoolik  
Shishmaref  
Shungnak  
St. Mary's  
St. Michael  
Stebbins  
Teller  
Unalakleet  
Wainwright  
Wales  
White Mountain

### SPONSOR STATEMENT

#### SB 45, Peace Officer Convicted of Murder.

SB 45 mandates the maximum sentence for first-degree murder when committed by a peace officer who used the officer's authority to facilitate the crime.

This legislation derives from the Nome murder of Sonya Ivanoff, a well-known and well-liked young girl in the Bering Straits region. The investigation and subsequent conviction of the police officer responsible for the murder caused much anguish and consternation for both the Ivanoff family and the region's population in general.

At the police officer's sentencing, the judge agreed with the state prosecutor's recommendation that the maximum penalty should be imposed. His rationale was that while state law mandates the maximum penalty when a peace officer is murdered while acting in the line of duty [AS 12.55.125 (a)(1)], first degree murder by a peace officer acting in a position of trust and public protection was equally egregious.

SB 45 provides sentencing parity for the protection of our guardians of civil law and order and for the public's trust in their activities and responsibilities.

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB045-Courts-1-23-07  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Peace Officer Convicted of Murder RDU Alaska Court System  
 Component Trial Courts  
 Sponsor Senator Olson  
 Requester \_\_\_\_\_ 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 court system does not anticipate any fiscal impact from the passage of SB 45.

Prepared by: Doug Wooliver, Administrative Attorney Phone 463-4750  
 Division: Alaska Court System Date/Time 1-23-07 @ 8:45 a.m.  
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 1/23/2007  
 Agency: Alaska Court System

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB045-DOA-OPA-1-24-07  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act relating to murder in the first degree RDU Legal and Advocacy Services  
 Component Office of Public Advocacy  
 Sponsor Senator Olson  
 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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 provides a mandatory sentence of 99 years imprisonment for a defendant convicted of first-degree murder where the defendant was an on-duty peace officer at the time of the offense. While it is not possible to reliably predict the fiscal impact this legislation would have on the Agency, we anticipate the circumstances this bill addresses to be rare. Therefore, any impact on the Agency would be de minimus. The Agency, therefore, submits a zero fiscal note.

Prepared by: Joshua P. Fink Phone 907-269-3501  
 Division: Office of Public Advocacy, Director Date/Time 1/24/07 8:00 a.m.  
 Approved by: Melanie Millhom, Deputy Commissioner Date 1/24/2007  
 Agency: Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB045-DOA-PD-1-22-07 (1)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act relating to murder in the first degree RDU Legal and Advocacy Services  
 Component Public Defender Agency  
 Sponsor Senator Olson  
 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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 provides a mandatory sentence of 99 years imprisonment for a defendant convicted of first-degree murder where the defendant was an on-duty peace officer at the time of the offense. While it is not possible to reliably predict the fiscal impact this legislation would have on the Agency, we anticipate the circumstances this bill addresses to be rare. Therefore, any impact on the Agency would be de minimus. The Agency, therefore, submits a zero fiscal note.

Prepared by: Quinlan Steiner  
 Division: Public Defender Agency - Director  
 Approved by: Melanie Millhorn, Deputy Commissioner  
 Agency: Administration

Phone 907-269-3501  
 Date/Time 1/22/07 at 4:20 p.m.  
 Date 1/23/2007

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 45 (STA)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
 Title An Act relating to murder in the first degree. RDU Administration and Operations  
 Component Officer of the Commissioner  
 Sponsor Senator Olson  
 Requester Senate State Affairs 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
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts	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
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2006) cost: 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 will not create a substantial fiscal impact for the Department of Corrections. The number of potential cases should be very insignificant.

Prepared by: Sharleen Griffin, Director Phone (907) 465-3339  
 Division Administrative Services Date/Time 1/23/07 12:42 PM  
 Approved by: Dwyane Peoples, Deputy Commissioner Date 1/23/2007  
 Agency Department of Corrections

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB045-LAW-CJL-1-22-07  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title An Act relating to mandatory sentencing of a RDU Criminal Division  
peace officer convicted of murder. Component Criminal Justice Litigation  
 Sponsor Senator Olson  
 Requester Senate State Affairs 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The bill would amend current statute by imposing a mandatory ninety-nine year sentence for any peace officer convicted of first degree murder who was on duty at the time of the murder.

It is not anticipated that this bill would have any significant fiscal impact upon the Department of Law.

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 1/22/07 8:54 AM  
 Date 1/22/2007

**ALASKA FEDERATION OF NATIVES**

**2006 ANNUAL CONVENTION**

**RESOLUTION 06-17**

**TITLE: SUPPORTING SONYA IVANOFF LAW**

**WHEREAS: A police officer was recently convicted of murder in the first degree in the death of 19 year old Alaska Native Sonya Ivanoff and sentenced to 99 years of imprisonment; and**

**WHEREAS: AS 12.55.125, provides in part that a Defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when the defendant is convicted of murder of a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was engaged in the performance of official duties at the time of the murder; and**

**WHEREAS: the State attorney cited AS 12.55.125 as justification for imposing a sentence of 99 years of imprisonment for the police officer who murdered Sonya Ivanoff; and**

**WHEREAS: the State's attorney opined during the sentencing hearing that an equivalent sentence should result if a police officer is convicted of murder in the first degree for a crime that is committed while the officer is on duty; and**

**WHEREAS: the Presiding Judge agreed with the State's attorney's rationale and imposed the maximum sentence of 99 years of imprisonment for the police officer who brutally murdered Sonya Ivanoff while he was on duty; and**

**WHEREAS: the Alaska Legislature has an opportunity to restore confidence in the Justice System for ALL ALASKA RESIDENTS, no matter where they live, and assure that justice is equally applied for all residents; and**

**WHEREAS: Alaska Federation of Natives, Inc. believes that more stringent sentencing guidelines need to be enacted to reflect the State's desire to bring to justice ALL criminals, whether or not they are uniformed, and a higher sentencing standard should be applied to peace officers who are convicted of committing murder in the first degree while on duty; and**

**WHEREAS: Peace officers convicted of committing murder in the first degree should be sentenced to 99 years without the possibility of parole.**

NOW THEREFORE BE IT RESOLVED by the Delegates to the 2006 Annual Convention of the Alaska Federation of Natives, Inc. that AFN hereby requests that our regional delegation to the Alaska State Legislature, Senator Donald Olson, Representative Richard Foster and the Representative Reginald Joule, sponsor a bill amending AS 12.55.125 to include language adding a paragraph (5) as follows:

- 5. The defendant is a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was on duty at the time of the murder. This provision shall be known as "The Sonya Ivanoff Law."

BE IT FURTHER RESOLVED that the bill also includes the following language:

The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The Act applies to offenses or acts committed on or after the effective date of this Act.

This Act takes effect immediately under AS 01.10.070 (c).

BE IT FURTHER RESOLVED, that the Alaska Federation of Natives, Inc. hereby requests the Alaska State Legislature and the Governor to support passage and enactment of this bill.

SUBMITTED BY: KAWERAK, INC AND NORTON SOUND HEALTH CORPORATION

COMMITTEE ACTION: DO PASS

CONVENTION ACTION: AMENDED AND PASSED





**KAWERAK, INC.** • P.O. Box 948 • Nome, AK 99762

TEL: (907) 443-5231 • FAX: (907) 443-4452

- SERVING THE
- VILLAGES OF:
- BREVIG MISSION
- COUNCIL
- DIOMEDE
- ELIM
- GAMBELL
- GOLOVIN
- KING ISLAND
- KOYUK
- MARY'S IGLOO
- NOME
- SAVOGANGA
- SHAKTOOLIK
- SHISHNAREF
- SOLOMON
- STEBBINS
- ST MICHAEL
- TELLER
- UNALAKLEET
- WALES
- WHITE MOUNTAIN

Good morning, Chairperson McGuire and members of the Senate State Affairs Committee.

Thank you for this opportunity to testify on SB 45 – "An Act relating to murder in the first degree." My name is Loretta Bullard. I am President of Kawerak Incorporated, a regional non-profit consortium of 20 tribes located on the Seward Peninsula of Alaska. I am testifying in support of this bill.

As a long term resident of Nome, I wanted to speak to the horror that the entire community of Nome experienced, when Sonya Ivanoff was killed. No one knew who had killed this beautiful, vibrant, promising young woman. Her family, friends, and community were devastated. There were a number of individuals who were suspected early on, wrongly, as it turns out. When a member of the Nome Police Department came under suspicion, there was a time during which the Nome Police Department attempted to investigate one of their own. Thankfully, the Alaska State Troopers were called in.

Community residents were horrified:

- to find that a Nome Police Officer was under suspicion of murder;
- that the Nome Police Officer was released on \$35,000 bail pending trial - his bail was subsequently revoked when he was observed driving around Nome with a juvenile in his vehicle without his court ordered custodian; and
- when the police officer was convicted of 1<sup>st</sup> degree murder and a review of the State Statutes left open the possibility of a minimal sentence and parole.

Currently, state statute provides that an individual will be incarcerated for a mandatory 99 years if they are convicted of the murder of a uniformed police officer, fire fighter or correctional employee – but the opposing scenario is not addressed.

We strongly believe that a peace officer should be held to a stringent standard, since, as an officer of the law, they have sworn to uphold it. They are the individuals, we as community members look to for help during times of need. Matt Owens failed in his capacity as a sworn police officer and as a human being.

The language that is before the committee would insure that peace officers convicted of first degree murder while on duty would receive a mandatory sentence of 99 years. Our understanding is that a separate statute (AS 33.19.90) removes the possibility of being eligible for discretionary parole for crimes listed in AS 12.55.125. However, there is no prohibition against early release for good behavior which could result in a reduction to time served by 1/3. We recommend that the language be amended to remove any possibility of early release and that the amended legislation be forwarded for consideration to the Senate Judiciary Committee. As part of my testimony, I am forwarding copies of resolutions from Kawerak and Norton Sound Health Corporation Board of Directors in support of this bill.

Thank you for this opportunity to testify.



**KAWERAK, INC.** • P.O. Box 948 • Nome, AK 99762



TEL: (907) 443-5231 • FAX: (907) 443-4452

- SERVING THE
- VILLAGES OF:
- BREVIG MISSION
- COUNCIL
- DIOMEDE
- ELIM
- GAMBELL
- GOLOVIN
- KING ISLAND
- KOYUK
- MARYS IGLOO
- NOME
- SAVOONGA
- SHAKTOOLIK
- SHISHIMAREF
- SOLOMON
- STEBBINS
- ST. MICHAEL
- TELLER
- UNALAKLEET
- WALES
- WHITE MOUNTAIN

**RESOLUTION 2006-08**

**A RESOLUTION SUPPORTING THE "SONYA IVANOFF LAW"**

**WHEREAS**, A police officer was recently convicted of murder in the first degree in the death of 19 year old Alaska Native Sonya Ivanoff and sentenced to 99 years of imprisonment; and

**WHEREAS**, AS 12.55.125, provides in part that a Defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when the defendant is convicted of murder of a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was engaged in the performance of official duties at the time of the murder; and

**WHEREAS**, the State attorney cited AS 12.55.125 as justification for imposing a sentence of 99 years of imprisonment for the police officer who murdered Sonya Ivanoff; and

**WHEREAS**, the State's attorney opined during the sentencing hearing that an equivalent sentence should result if a police officer is convicted of murder in the first degree for a crime that is committed while the officer is on duty; and

**WHEREAS**, the Presiding Judge agreed with the State's attorney's rationale and imposed the maximum sentence of 99 years of imprisonment for the police officer who brutally murdered Sonya Ivanoff while he was on duty; and

**WHEREAS**, the Alaska Legislature has an opportunity to restore confidence in the Justice System for ALL ALASKA RESIDENTS, no matter where they live, and assure that justice is equally applied for all residents; and

**WHEREAS**, the Kawerak Board of Directors has strongly urged the investigation of the deaths of Alaska Natives in and around Nome that have occurred over the past 40 years, and believes very strongly that more stringent sentencing guidelines need to be enacted to reflect the State's desire to bring to justice ALL criminals, whether or not they are uniformed, and the Kawerak Board further believes that a higher sentencing standard should be applied to peace officers who are convicted of committing murder in the first degree while on duty;

**NOW THEREFORE BE IT RESOLVED** that the Board of Directors of Kawerak Incorporated hereby requests that our regional delegation to the Alaska State

Legislature, Senator Donald Olson and Representative Richard Foster and the Representative from the District in which the trial was held, Representative Reginald Joule, sponsor a bill amending AS 12.55.125 to include language adding a paragraph (5) as follows:

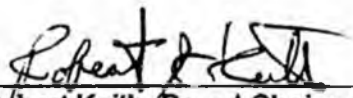
- (5) the defendant is a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was on duty at the time of the murder. This provision shall be known as "The Sonya Ivanoff Law."

**FURTHER BE IT RESOLVED** the bill also include the following language:

The uncodified law of the State of Alaska is amended by adding a new section to read:

**APPLICABILITY.** The Act applies to offenses or acts committed on or after the effective date of this Act.

This Act takes effect immediately under AS 01.10.070 (c).

  
 \_\_\_\_\_  
 Robert Keith, Board Chairman

**CERTIFICATION:**

I, the undersigned Secretary of Kawerak, Inc., Board of Directors hereby certify the foregoing Resolution 2006-08 was adopted at a duly called meeting of the Kawerak Executive Committee held on this 21st day of June, 2006.

Resolution 2006-08 was adopted by 4 Votes in FAVOR

0 Votes OPPOSED.

  
 \_\_\_\_\_  
 Rosemary Tootkaylok, Board Secretary



# **NORTON SOUND HEALTH CORPORATION**

P.O. BOX 966  
NOME, ALASKA 99762  
(907) 443-3311

## **NORTON SOUND HEALTH CORPORATION BOARD OF DIRECTORS**

### **RESOLUTION # 2006-12**

#### **A RESOLUTION SUPPORTING THE "SONYA IVANOFF LAW"**

**WHEREAS**, A police officer who was convicted of murder in the first degree in the death of 19 year old Alaskan Native Sonya Ivanoff was recently sentenced to 99 years of imprisonment and an additional 2 years for tampering with evidence; and

**WHEREAS**, A.S. 12.55.125, provides in part that a defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was engaged in the performance of official duties at the time of the murder; and

**WHEREAS**, the State's attorney cited A.S. 12.55.125 as justification for imposing a sentence of 99 years of imprisonment for the police officer who murdered Sonya Ivanoff, and

**WHEREAS**, The State's attorney opined during the sentencing hearing that an equivalent sentence should result if a police officer is convicted of murder in the first degree for a crime that is committed while the officer is on duty; and

**WHEREAS**, The Presiding Judge agreed with the State Attorney's rationale and imposed the maximum sentence of 99 years of imprisonment for the police officer who brutally murdered Sonya Ivanoff while he was on duty; and

**WHEREAS**, The Alaska State Legislature has an opportunity to restore confidence in the Justice System for **ALL ALASKA RESIDENTS**, no matter where they live, and assure that justice is equally applied for all residents; and

**WHEREAS**, The Norton Sound Health Corporation Board has in the past strongly urged the investigation of the mysterious deaths of Alaska Natives in and around Nome that have occurred over the past 40 years, and believes very strongly that more stringent sentencing guidelines need to be enacted to reflect the State's desire to bring to justice **ALL** criminals, whether or not they are uniformed, and the Board further believes that a higher sentencing standard should be applied to peace officers who are convicted of committing murder in the first degree while on duty.

**NOW THEREFORE BE IT RESOLVED**, That the Board of Directors of the Norton Sound Health Corporation hereby requests that our regional delegation to the Alaska State Legislature,

Senator Donny Olson and Representative Richard Foster, and the Representative from the District in which the trial was held, Representative Reggie Joule, sponsor a bill amending A.S. 12.55.125 to include language adding a paragraph (5) as follows:

(5) The defendant is a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was on duty at the time of the murder. This provision shall be known as "The Sonya Ivanoff Law."

**FURTHER BE IT RESOLVED**, That the bill also include the following language:

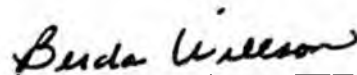
The un-codified law of the State of Alaska is amended by adding a new section to read:

Applicability. This Act applies to offenses or acts committed on or after the effective date of this Act.

**Certification**

Passed this 5<sup>th</sup> day of May 2006, at the duly convened meeting of the Norton Sound Health Corporation Full Board of Directors.

  
\_\_\_\_\_  
Emily Hughes, NSHC Board Chairman

  
\_\_\_\_\_  
Berda Willson, NSHC Board Secretary

**NORTON SOUND HEALTH CORPORATION  
FY 2006 BOARD OF DIRECTORS  
SIGNATURE PAGE**

Leonard Adams  
Leonard Adams  
Native Village of Brevig Mission

Karen Kazinguk  
Karen Kazinguk  
Native Village of Diomede

Diane Wadunga  
Diane Wadunga  
Native Village of Gambell

Robert Keith  
Robert Keith  
Kawerak, Inc.

Morris Nassuk  
Morris Nassuk  
Native Village of Koyuk

John Handeland  
John Handeland  
Nome At Large

Austin Ahmasuk  
Austin Ahmasuk  
Nome Eskimo Community II

Virginia Washington  
Virginia Washington  
Native Village of St. Michael

Simon Bekoolok Jr.  
Simon Bekoolok Jr.  
Native Village of Shaktolik

Brian James  
Brian James  
Village of Solomon

Emily Hughes  
Emily Hughes  
Native Village of Teller

Frank Oxereok Jr.  
Frank Oxereok Jr.  
Native Village of Wales

Berda Willson  
Berda Willson,  
Native Village of Council

Clarence Saccheus  
Clarence Saccheus  
Native Village of Elim

Mary Jane Willoya  
Mary Jane Willoya  
Chinik Eskimo Community

Jennifer Carlisle-Little  
Jennifer Carlisle-Little  
King Island Native Community

Dora Mae Hughes  
Dora Mae Hughes  
Mary's Igloo

Alfred Sahlin  
Alfred Sahlin  
Nome Eskimo Community I

Mary Knodel  
Mary Knodel  
City of Nome

Verna Immingan  
Verna Immingan  
Native Village of Savoonga.

Luci Eningowuk  
Luci Eningowuk  
Native Village of Shishmaref

Jean Peris  
Jean Peris  
Stebbins Community Association

Kathy Johnson  
Kathy Johnson  
Native Village of Unalakleet

Lincoln Simon Sr.  
Lincoln Simon Sr.  
Native Village of White Mountain

**SB**

**78**



## 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 5, 2008

To: Representative John Coghill  
Chair House Rules Committee

From: Representative Jay Ramras  
Chair House Judiciary Committee

Re: Referral File for SB78

---

Please accept this memorandum as the referral file for SB78. Attached are the following documents:

- Sponsor Statement
- HCSCSSB78(JUD) 25-LS0526\L
- Failed HJUD Amendments 1 and 2
- CSHB78(JUD) 25-LS0526\C
- Fiscal Notes
  - DPS - 0
  - LAW - 0
- 13 AAC 04.223
- Back-up
- Support
- HJUD Committee Report
- Bill History

# Alaska State Legislature



Senator Hollis French

## **SB 78 - Motor Vehicle Window Tinting**

### **Sponsor Statement**

Illegally tinted windows cause a number of safety concerns in Alaska's local communities. The dark tints create a danger for peace officers who approach vehicles, as they can completely block any view of the driver and passengers. In addition, these tints deny pedestrians, bikers and motorcyclists the opportunity to confirm they have been seen by a driver when meeting in an intersection or sharing a roadway.

Currently it is illegal for a vehicle to be on Alaska's roadways if the window tinting allows less than seventy percent of the light to transmit through the glass. However, it is not illegal for higher levels of tinting to be installed by auto detailing shops and similar businesses.

SB 78 would close this loophole by making it a violation to install illegal window tinting. The bill would also help enforcement efforts by allowing police to "go to the source" by writing violations for installers.

Please join me in supporting this legislation.

FAILED

25-LS0526L.1  
Luckhaupt  
4/4/08

AMENDMENT # 1

OFFERED IN THE HOUSE

BY REPRESENTATIVE RAMRAS

TO: HCS CSSB 78(JUD), Draft Version "L"

- 1 Page 1, line 12:
- 2 Delete "70"
- 3 Insert "50"

---

AMEND # 2 - FAILED

Move 13 AAC 04.223 (d)(e)

into statute

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# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: SB78-DPS-AST-3-6-07  
 Bill Version: SB 78  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time : \_\_\_\_\_ Dept. Affected: Public Safety  
 Title "An Act relating to the installation of window tinting in automobiles." RDU Alaska State Troopers  
 Component AST Detachments  
 Sponsor Senator French  
 Requester Senate 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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)

SB 78 makes it a crime to install window tinting on portions of a vehicle that the department has deemed improper or to install window tinting that does not allow for an appropriate level of light transmittance to pass through. AST does not expect a great number of these crimes to occur and predicts little impact to the Department of Public Safety.

Prepared by: Lt. Rodney Dial Phone 907-247-4480  
 Division: Division of Alaska State Troopers Date/Time 3/5/07 1600  
 Approved by: Commissioner Walt Monegan Date 3/6/2007  
 Agency: Department of Public Safety

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: SB078-LAW-CJL-3-E 07  
 Bill Version: SB078  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title An Act relating to motor vehicle window tinting RDU Criminal  
 Component Criminal Justice Litigation  
 Sponsor SENATOR FRENCH  
 Requester SENATE 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (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 make it a crime to install tinted windows on those parts of a motor vehicle where they are not permitted by the department (DOA) or at a level of darkness that is not allowed by the department. The penalty for conviction of this prohibition is a misdemeanor, with a maximum fine of \$500 and 90 days incarceration.

The Department of Law does not anticipate any significant fiscal impact from passage of this legislation.

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 3/6/07 9:20 AM  
 Date 3/6/2007

above that emitted by the muffler originally installed on the vehicle for use on the highway or a vehicular way or area. A person may not alter an exhaust particle emission system built into a motor vehicle to decrease its effectiveness.

(b) The engine and power mechanism of a motor vehicle must be equipped and adjusted to prevent the escape of excessive fumes or smoke.

(c) Repealed 6/28/79.

(In effect before 7/28/59; am 12/15/61, Register 3; am 8/10/66, Register 22; am 12/31/69, Register 31; am 6/28/79, Register 70)

Authority: AS 28.05.011

**13 AAC 04.220. Mirrors.** (a) A motor vehicle must be equipped with a mirror mounted on the left side of the vehicle; every motor vehicle except a motor-driven cycle, bicycle, or off-highway vehicle, must be equipped with a mirror mounted either inside the vehicle approximately in the center, or outside the vehicle on the right side.

(b) The following motor vehicles must be equipped with mirrors on both the left and right sides of the vehicle:

(1) a bus or school bus;

(2) a motor vehicle constructed, loaded or designed to be loaded in a manner which obstructs the driver's view through the rear window; or

(3) a motor vehicle towing a vehicle when the towed vehicle or its load obstructs the driver's view through the rear window.

(c) All mirrors required by this section must be maintained in good condition and located to reflect to the driver a view to the rear of the vehicle. (In effect before 7/28/59; am 12/15/61, Register 3; am 8/10/66, Register 22; am 12/31/69, Register 31; am 6/28/79, Register 70)

Authority: AS 28.05.011

**13 AAC 04.223. Tinted vehicle windows.** (a) A person may not drive a motor vehicle on a highway, public road, street, or parking lot with mirrored tinting material on any window of the vehicle. Except as provided in this section, a person may not drive a motor vehicle on a highway, public road, street or parking lot with aftermarket tinting material or aftermarket striping material on any window of the vehicle.

(b) Aftermarket tinting of vehicle windows is allowed as follows:

(1) the front windshield may have a strip of tinting material applied to the top edge, known in the industry as an "eyebrow," which does not extend downward more than five inches from the top of the glass;

(2) the driver and front passenger side windows may have tinting material that permits at least 70 percent light transmission.

(3) the rear door windows, quarter glasses, and back glasses may have tinting material that permits at least 40 percent light transmittance;

(4) limousines and passenger buses used to transport persons for hire, motor homes, and vehicles identified by the vehicle manufacturer as multipurpose may have tinting material that complies with Standard No. 205, Glazing Materials, in 49 C.F.R. 571.205 (1992).

(c) The windows of a vehicle may have tinting material that permits less light transmittance than that specified in (b) of this section if

(1) a driver or a passenger who frequently travels in the vehicle is required for medical reasons to be shielded from the direct rays of the sun;

(2) the medical reasons are certified annually by a physician licensed to practice in this state; and

(3) the certification is carried in the vehicle.

(d) Tinting materials must be green, gray, bronze, or neutral smoke in color, or a sun reflective auto film.

(e) Light transmittance must be measured by using a light transmittance measuring device with an allowance for manufacturing variances of plus or minus three percent. The accuracy of the device must be certified by the manufacturer.

(f) In this section, "light transmittance" means the ratio, expressed as a percentage, of the amount of total light that is allowed to pass through a window, including glazing, to the amount of total light falling on the window.

(g) All vehicles must comply with this section by July 1, 1994.

(h) A tinted rear window on a motor vehicle is exempt from regulations relating to the tinting or luminous transmittance materials used in motor vehicle windows, if the vehicle's owner has proof that the rear window tinting was installed before July 1, 1994, and the vehicle is equipped with driverside and passenger-side rearview mirrors. (Eff. 10/2/92 Register 123; am 4/2/94, Register 129; am 2/8/98, Register 145)

Authority: AS 28.05.011

**13 AAC 04.225. Windshields and wipers.** (a) No person may drive a motor vehicle which is not equipped with a windshield, nor may a person drive a motor vehicle equipped with a defective windshield or windows which obstructs, obscures or impairs the driver's view. This section does not require a windshield as equipment upon a motor-driven cycle, bicycle, or off-highway vehicle.

(b) No person may drive a motor vehicle with a sign, poster or other nontransparent material on the front windshield or window of the vehicle which obstructs, obscures, or impairs the driver's view; nor may a person drive a motor vehicle when there is an accumulation of snow, ice or frost on the windshield or windows which obstructs, obscures or impairs the driver's view.



**WINDOW TINT**

**ALASKA / FEDERAL LAW**

# ALASKA LAW

- Front windshield 5" strip of tint
- Front driver and passengers side windows must allow 70% Visible Light Transmission (VLT).
- All other rear windows must allow 40% VLT, (some exemptions).
- Special use vehicles must comply with 49 C.F.R. 571.205 (Federal Law)

# FEDERAL LAW

- The Federal DOT specifies a minimum of 70% VLT for window tinting on the windshield and the windows to the immediate left and right of the driver.
- The Federal DOT does not specify any VLT requirements for any other windows

# OTHER JURISDICTIONS

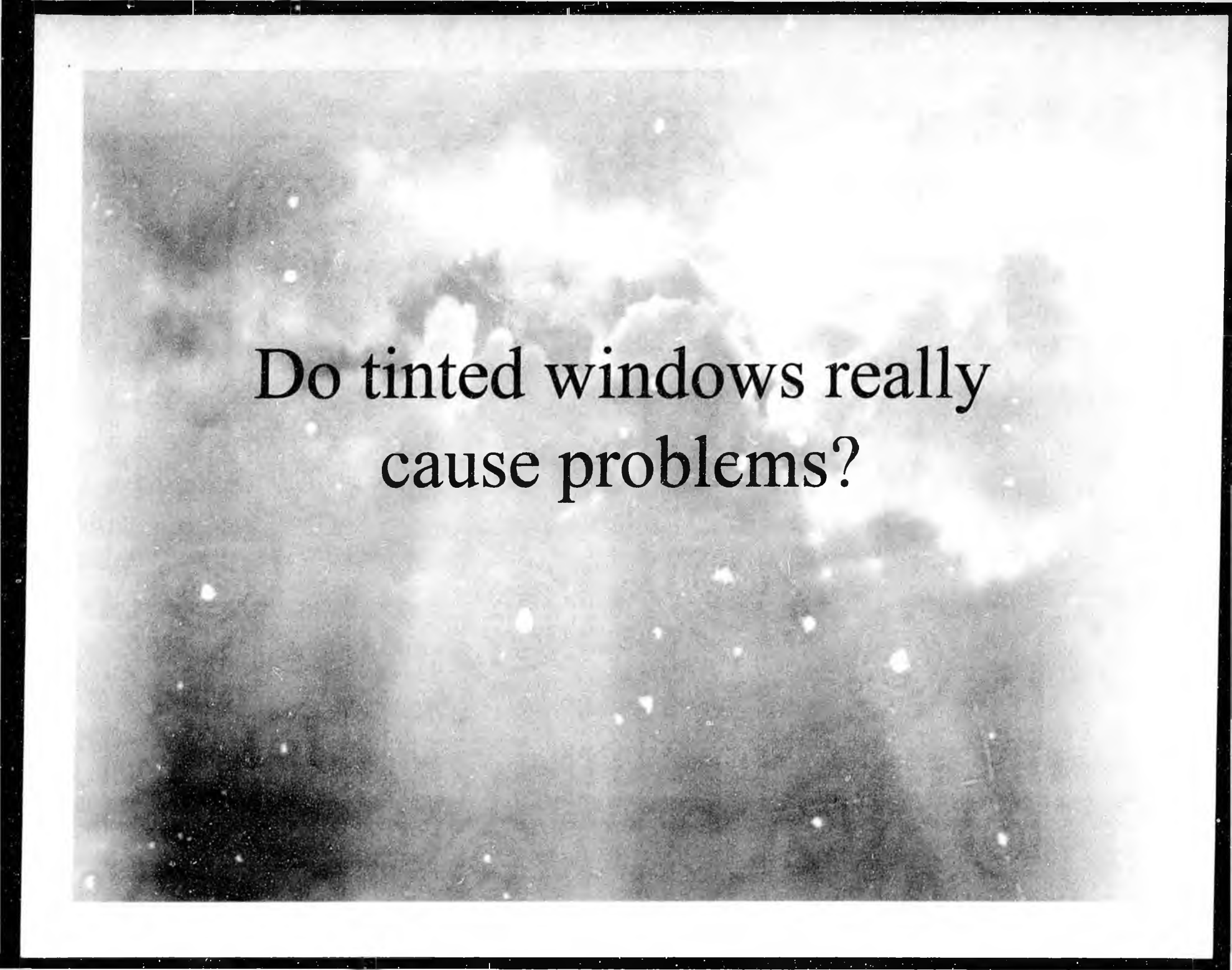
- At least 13 other States have similar, or more restrictive laws.
- 90% of Canadian provinces have a similar or more restrictive laws.
- 5 States allow 50% VLT (front sides)
- 31 States range from 20%-40% VLT (front sides)
- General rule, the hotter the climate, the greater window tint allowed.

# For Consideration

- Driving with tinted windows at night is the same as driving with sunglasses on.
- Sunglasses are regulated by the Food and Drug Administration (FDA) as medical devices.
- Per the American National Standards Institute (ANSI) Cosmetic sunglasses must let through at least 40% of the visible light (not recommended for wear at night).
- Most people choose General Purpose sunglasses in the 15 to 25% VLT range.
- **Some** want Alaska's Tinted window law to allow tints that only allow 30% of VLT.

# Common filter colors

- light gray, which transmits **35 to 43%** of visible light.
- dark gray, which transmits **14 to 25%** of visible light
- light brown or tan, which transmits **27 to 29%** of visible light
- dark brown, which transmits **18 to 27%** of visible light
- yellow, which transmits **68 to 71%** of visible light
- amber, a high-definition filter that inhibits blue light
- neutral gray or brown, for indoor or computer use, transmitting **60% of visible light**

A black and white photograph of a cloudy sky, viewed through a window with a white border. The clouds are soft and textured, with varying shades of gray and white. The text is centered over the image.

Do tinted windows really  
cause problems?

## Police Officer Shot To Death After Car Chase

(March 24, 2007)--A Dallas police officer was shot and killed Friday after a car chase in which the suspect's car ended up nose to nose with the squad car, a police spokesman said.

Senior Corporal Mark Timothy Nix, 33, was declared dead at Parkland Memorial Hospital. He had been on the force nearly seven years and was a veteran of the first Gulf War. The car chase ended in a West Dallas neighborhood when the suspect lost control of his car.

The police car and the suspect's car ended up front bumper to front bumper.

A police spokesman says the suspect opened fire, shooting from inside his car.

The chase began around 5 p.m. after officers spotted the man, initially believed to be a suspect in a killing committed earlier this week, driving down the street, the spokesman said.

Police spokesman Vernon Hale said the car's dark, tinted windows initially prevented officers from knowing how many people were inside.

Texas Law allows 65% tint / 35% VLT - Front D/P

*“The red and gray Chevrolet Caprice with customized rims, driven by Mr. Ruiz, had nearly blacked-out tinted windows, and the officers could see neither the race of the driver – the suspects in the Wednesday morning slaying were black – nor how many people were in the car”.*

With his other hand, he yanked out his expandable baton, known as an asp, and began hammering on the window trying to break it.

The Caprice's window barely budged, held together by the heavy tint. He managed no more than a small hole when a shot came from inside the car. Police later found his baton and sidearm laying beside the car.

Mr. Ruiz fired at least one round from an assault rifle, which may have at some point jammed. The bullet pierced Senior Cpl. Nix's neck near his **privilege**. He dropped to the ground. He did not fire his weapon.

## Examples of other problems

- Chicago - Police officers unable to see clearly through a tinted window mistakenly shot a passenger they thought had a gun (cell phone). *Mayor vowed to ban all tinted windows.*
- Numerous examples of criminals who were not identified because witnesses could not see the driver through tinted windows.
- Collisions with motor vehicles and pedestrians blamed on poor visibility due to tinted windows.

- The National Highway Traffic Safety Administration has noted that tinted windows can hamper police in determining whether a vehicle's occupants are wearing seat belts or have their children properly protected in car seats.
- Heavy tints may also prevent other motorists from viewing the road ahead by looking through the cabins of cars in front of them - something many drivers do, especially when roads are congested.
- Tinted windows can impair a driver's vision, particularly at night, making it difficult to see pedestrians and bicyclists, for example.

# TINT EXAMPLES

Taken from the Tint industry and photographs  
of actual vehicles in Alaska

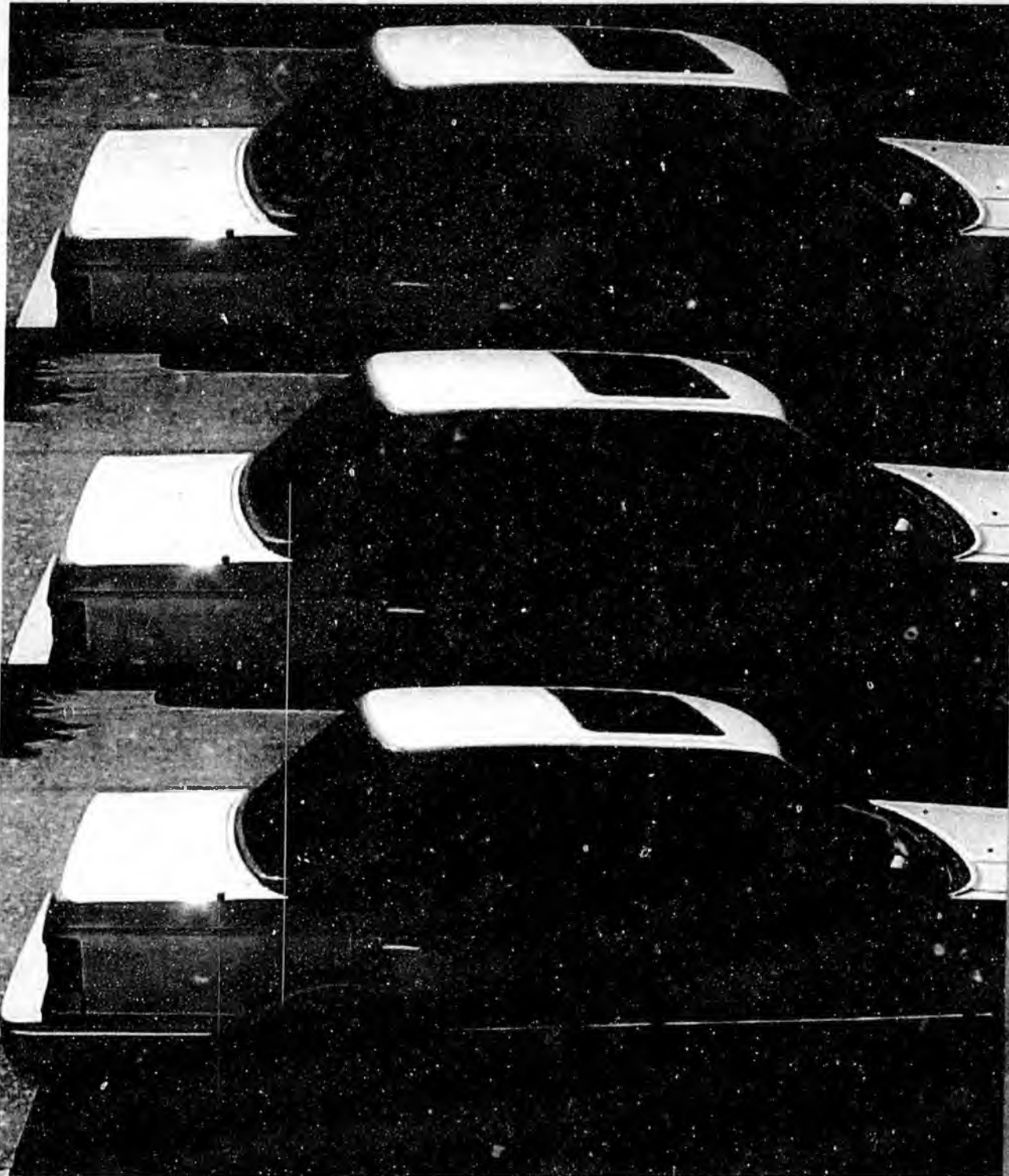
## Nissan Maxima

70% VLT  
(Light / Legal)

30% VLT  
(medium)

5% VLT  
(Heavy /Limo)

Note: pictures taken on a sunny day (see shadows), far harder to seen inside during periods of low light

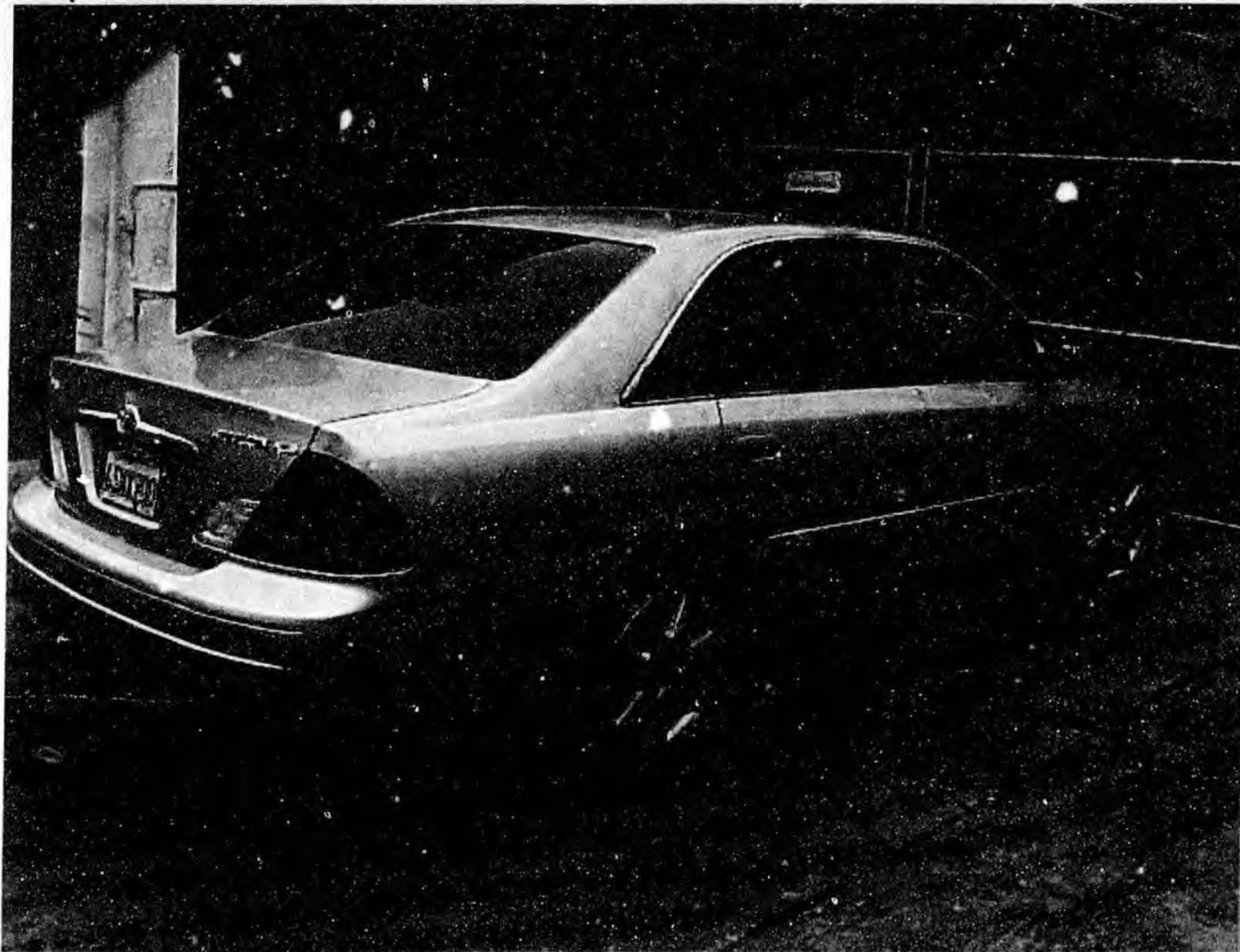




Ford Bronco - Front DR/PS 75% VLT Rear doors/windows 20%  
VLT (black)



Dodge Durango - Front DR/PS 80% VLT Rear doors/windows  
20% VLT (stock).



Toyota Camry - Front DR/PS 70% VLT (stock), Rear doors 35% VLT, Rear Window 20% VLT (aftermarket).

## **Reasons not to change current law**

- Our current standard assures that Alaskan vehicles are in compliance with the tinted window laws in most States and Canadian provinces.
- Increased visibility for the driver.
- Increased safety for pedestrians.
- Increased safety for Law Enforcement officers.

# Reasons to support SB78

- Protects the public from unethical installers who would tint a vehicle, knowing that the installation is illegal.
- Will reduce the number of citations issued to motorists.
- Will increase safety on our highways.

You can always wear sunglasses on a sunny day, but can't take off window tint at night.

A black and white photograph of a cloudy sky. The clouds are scattered and vary in density, with some appearing as bright white patches against a darker, greyish background. The overall tone is somewhat somber due to the monochrome palette.

THANK YOU  
ANY QUESTIONS?