

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SSTA 12742

over debt to finance similar private facilities. Thus, tax law encourages monopoly government ownership and is prejudiced against private-sector competition and innovation.

The tax advantage for municipal bonds also creates an incentive for private groups to lobby government officials to issue debt on their behalf. In 1986, Congress tried to clamp down on this problem by imposing limits on the issuance of tax-exempt "private activity bonds." But in a series of tax bills since then, Congress has reversed course and embraced economic micromanagement by creating additional types of tax-favored private purpose debt.

Census Bureau data show "public debt for private purposes" is 23 percent of total municipal debt, but the efficient amount of such debt would be zero percent. It makes no sense, for example, that dozens of major sports stadiums have been built with tax-exempt municipal debt while private projects that are the real backbone of the economy, such as oil refineries, must be built on taxable finance.

Debt Has Pitfalls

Governments can finance capital projects by issuing bonds or by using current revenues, called pay-as-you-go financing. For state governments, most capital investment is funded on a pay-as-you-go basis.

Governments in a few states, such as Idaho and Wyoming, issue very little debt and seem to do just fine.

In theory, it might make sense for governments to finance capital projects with debt, as private businesses often do. But in practice, when politicians are given the power to issue debt, they have an incentive to issue far too much because it allows spending without the political constraint of having to tax current voters. The private interests that benefit from spending encourage officials to issue excess debt, and they push for passage of bond issues at the ballot box in voter referenda.

From the perspective of the average taxpayer, debt financing should be minimized. It is more costly than pay-as-you-go financing because of the interest payments incurred. It also comes with an overhead cost in the form of the large municipal bond industry, which employs tens of thousands of lawyers and finance experts in underwriting, trading, advising, bond insurance, and related Wall Street activities.

Another problem with debt is that mixing big government with big finance usually causes corruption. The municipal bond industry has had many scandals. In "pay-to-play" schemes, bond underwriters use bribes or campaign contributions to win bond business from state and local officials. There are federal laws to prevent such abuses, but violations are common.

A recent pay-to-play scandal in Philadelphia resulted in criminal sanctions against the city's treasurer and allegations that the mayor's office paid out big fees to politically connected bond firms that gave money in exchange for contracts to arrange big debt issues.

Debt Hides Government Costs

High levels of debt make government finances less transparent to citizens. People don't recognize the high costs of projects that officials are pursuing if they don't feel the bite of current taxes. And if concerned citizens look into their government's debt situation, they may find it very difficult to understand. A recent "debt primer" by the State of California is 606 pages long.

Perhaps the best reason to start reducing debt is that large financial burdens are looming over the states. Medicaid costs are growing rapidly and breaking state budgets. Pension plans for

state and local employees have huge funding shortfalls that could total \$700 billion nationwide, according to Barclays Global Investors.

Even more costly may be the generous retirement health care plans promised to state and local workers. An estimate by Mercer Human Resources put the unfunded costs of those plans at \$1 trillion. Finally, disasters such as hurricanes might impose added budget stress on the states in the future.

To budget in a conservative manner, debt loads should be reduced to create room for such contingencies.

Right Time Is Now

State and local tax revenues are currently growing strongly, so now is a good time to start reducing debt loads. There is no particular optimal level of government debt, but there should be a strong bias in favor of pay-as-you-go financing for infrastructure because it is cheaper, more transparent, and more prudent given the large costs that face the states in coming years.

Routine capital projects, such as school construction, should be financed on a pay-as-you-go basis. Debt financing is more appropriate for large and unforeseen needs, such as rebuilding after disasters.

State and local governments should cease issuing debt for private purposes. Investments that generate streams of income, such as stadiums, airports, and parking lots should be privatized, not subsidized by issuance of government debt. The federal government should repeal the tax exemption for municipal bond interest, perhaps in exchange for reducing overall tax rates on savings.

For their part, citizens need to remember that government debt simply represents deferred taxes and charges, and that they will have to bear the burden sooner or later.

Chris Edwards (cedwards@cato.org) is director of tax policy studies at the Cato Institute. A version of this article appeared in the July 2006 issue of the Cato Institute's Tax and Budget Bulletin. Used by permission

Saving 20% by 2020: EU Unveils Action Plan on Energy Efficiency

Delegation of the European Commission to the U.S. 10/19/2006

URL: http://www.rigzone.com/news/article.asp?a_id=37293

As a major step toward meeting the unprecedented energy challenges facing the EU, the European Commission today presented its Energy Efficiency Action Plan. The Plan contains a package of priority measures covering a wide range of cost-effective energy efficiency initiatives.

"Europeans need to save energy. Europe wastes at least 20% of the energy it uses. By saving energy, Europe will help address climate change, as well as its rising consumption, and its dependence on fossil fuels imported from outside the Union's borders," said Energy Commissioner Andris Piebalgs. "Energy efficiency is crucial for Europe: If we take action now, the direct cost of our energy consumption could be reduced by more than euro 100 billion annually by 2020; around 780 million tons of CO2 will also be avoided yearly."

The plan calls for actions to make energy appliances, buildings, transport and energy generation more efficient. It proposes stringent new energy efficiency standards, promotion of energy services, and specific financing mechanisms to support more energy efficient products. The Commission will furthermore establish a Covenant of Mayors of the 20-30 most pioneering cities in Europe and will propose an international agreement on energy efficiency. Altogether the plan includes over 75 measures.

The Action Plan, which will be implemented over the next six years, is in response to the urgent call from Heads of State and Government at the Spring European Council this year for a realistic Energy Efficiency strategy. The plan underlines the importance of minimum energy performance standards for a wide range of appliances and equipment (from household goods such as fridges and air conditioners to industrial pumps and fans), and for buildings and energy services. In combination with performance ratings and labeling schemes, minimum performance standards represent a powerful tool for removing inefficient products from the market, informing consumers of the most efficient products and transforming the market to make it more energy efficient. Minimum performance requirements for new and renovated buildings will be developed. Very low energy consumption buildings (or passive houses) will also be promoted.

The plan emphasizes the considerable potential for reducing losses in the generation, transmission and distribution of electricity. The Action Plan proposes targeted instruments to improve the efficiency of both new and existing generation capacity and to reduce transmission and distribution losses. A comprehensive set of measures for improving energy efficiency in the area of transport is put forward. The plan recognizes that energy savings can be achieved, in particular, by ensuring fuel efficiency of cars, developing markets for cleaner vehicles, ensuring proper tire pressure and by improving the efficiency of urban, rail, maritime and aviation transport systems. The plan recognizes the importance of changing transportation behavior. The Action Plan also calls for appropriate and predictable price signals, essential for improving energy efficiency and overall economic performance. The plan also contains a number of additional proposals to raise energy efficiency awareness, such as education and training. Finally, the plan emphasizes the urgent need for energy efficiency issues to be addressed on a global level through international partnerships.

The Action Plan on Energy Efficiency, when fully implemented, can thus improve the Union's competitiveness, improve the living standards of its citizens, boost employment and increase exports of new, energy-efficient technology. On an individual level, small changes in our energy consumption patterns will mean saving money, improving the environment and doing our share for our common European goals.

JOHN E. PETERSEN

Seat-Belt Budgeting



The pilot intones the familiar phrase: "Put on your seat belts, we've got bumpy weather ahead." It's a good time for states to be thinking about that admonition. After a few years of smooth flying through the recovery in the national economy, states need to be asking whether their budgets

and fiscal systems are prepared for an economic downturn.

The states are currently being kept aloft by revenue systems that have undergone restructuring during the past decade. They are now much more sensitive to changes in personal and corporate income. During good years, substantial corporate profits and capital gains bring in slugs of money. But this is followed by droughts when financial markets, business earnings and incomes turn down. Even the sales tax runs on a much more volatile mixture, with higher tax rates spitting out revenues on an ever-narrowing base. So, when incomes and expenditures change—up or down—the resulting bounce in state revenues is much greater. The shallow but prolonged recessionary conditions of 2001 through 2003 reflected this: State income tax collections in 2003 fell by about \$24 billion from their peak in 2000.

State spending is also changing. Increasingly, it is driven by the needs of the very old, the very young and the less affluent. The major cost driver has been the Medicaid program, which has grown explosively and now accounts for one-quarter of state spending. The long-term prognosis is not good: State populations are aging, and the cost of health care continues to rise more rapidly than prices in general. Medicaid costs are projected to go up 8 percent a year over the next decade. In good years, state revenue systems meet that mark but not in bad years.

Furthermore, after a decade of subdued inflation, the prices that governments have to pay are growing. The overall price index for government spending, heavily influenced by the growth in the costs of medical care, is going up faster than the general price index. Thus, states in fiscal year 2006 increased spending by 7.6 percent, which appears pretty healthy until you crank in that the state and local price deflator has been rising by 6 percent recently.

What is happening on the inflation front is of critical importance in anticipating fiscal storms. Concern rotates around the impact of higher oil prices and interest rates on the state government sector. A few states—Alaska, Oklahoma, Wyoming—have benefited from higher prices with higher tax revenues, but most are burdened, both directly as

the cost of fuel and energy rises and indirectly as increasing costs erode the buying power of consumers. The extra \$10 to \$20 per week constituents spend on filling up their car means less money to spend on other things. Since most gasoline is taxed per gallon, the higher prices don't help gas tax revenues; but the fewer dollars spent on other things does reduce state sales tax revenues.

Add to that the leveling off of real estate values. Housing starts are at their lowest levels in 15 years, and home listings are up by a factor of three in many markets. Local government finances, which held up well in the early part of the decade thanks to rising property values, may not do so this time around. The sagging real estate market may, in fact, trigger a downturn.

Adding to the uncertainties is the continuing malaise in pension finances. While better times and improved investment results brought some improvement to pension finances the past couple of years, the overhang of unfunded liabilities is unlikely to be dissolved by booming financial markets. And that doesn't even count in the latest fiscal joker—the unfunded employee retirement health benefits.

Nonetheless, state budgets for fiscal 2007 are calling for modest increases in spending and, after an assortment of tax cuts, a reduction in reserves. According to the National Association of State Budget Officers, state fund balances including rainy day funds, were rebuilt to 8.7 percent of expenditures by the end of 2005. Now, they are slated to drop to about 7.9 percent, with no growth foreseen in dollar reserves. Lest we forget, states ate a hole in their reserves in the recent recession—when those reserves were at 10.4 percent of expenditures. The windfalls from the tobacco settlement and the \$20 billion in federal payments that were tied to the tax reduction act of 2003 are unlikely to be repeated. Thus, states approach future uncertainties with dwindling reserves, which is likely to mean quicker and deeper cutbacks as deficits emerge.

A downturn is not yet on the horizon, but a dose of fiscal prudence seems to be in order. Check those seat belts!

John E. Petersen can be reached at jep@gmu.edu

There's economic turbulence ahead that state budget and fiscal systems may not weather well.

Provided by Senator Dyson
1/18/07

POTOMAC CHRONICLE



Fiscal Candor

A new report tells governments something they need to know—but would rather not hear.

When it comes to tilting at windmills, you've got to hand it to the National Academy of Public Administration, a rabbit warren of policy wonks that still clings tenaciously to the notion that complex issues of long-range importance to our country deserve serious analysis, debate and discussion.

NAPA's latest effort actually manages to tilt at two windmills at once: It explores the intergovernmental implications of long-range tax policy. If there's one subject the political leadership of this country likes discussing less than long-range tax policy, it's the intergovernmental implications of anything.

But NAPA has taken on the challenge in a just-released report based on the proceedings from a one-day forum that brought together a broad range of scholars and practitioners to discuss the importance of coordinating long-range revenue policies among and between layers of government.

Among the assembled were G. William Hoagland, top adviser to Senate Majority Leader Bill Frist; Katherine Baicker, of the President's Council of Economic Advisers; Mick Cornett, the mayor of Oklahoma City; and Jay Rising, the Michigan state treasurer. Hoagland offered one of the more intriguing proposals of the day: He suggested that the President should regularly include in his budget a statement on its intergovernmental fiscal impacts.

The group managed to lay out a pretty convincing case for why we

ought to attempt a more sophisticated approach to long-range tax policy. It came to an agreement that we all should be worried about the long range fiscal health of the United States, and that no single layer of government is going to be able to deal with all the taxation and spending challenges.

About the only time Congress gets close to introspection on these subjects is when it tries to preempt state and local powers to collect taxes across state lines. It did that in a piece of legislation considered this spring, one that, if enacted, could cost state and local governments \$1 billion in the first year and \$3 billion per year by 2011. It's just the sort of blunt-instrument answer to complicated fiscal questions that the NAPA report warns against trying.

Rather than play preemption games, the NAPA panel concluded, legislators at all levels of government need to be thinking about such factors as the shifting political and economic climate across the globe; the aging U.S. population (and the health care cost implications thereof); our aging infrastructure; a ballooning federal debt; and rapidly rising public pension obligations at the state and local level.

The good news about the NAPA forum and the resulting report is that a group of such ideological and professional diversity managed to reach a fair amount of consensus in just one day of deliberation. The bad news is that it's not likely to happen again; NAPA doesn't have the resources to continue such quixotic enterprises on

anything like an ongoing basis. And the report makes for such sobering—even depressing—reading that it's unlikely to get much circulation outside a dwindling handful of hard-core intergovernmental specialists.

So very few citizens, even those who try to keep themselves informed on fiscal questions, are likely ever to come upon the warning of the NAPA forum that "fragmented and inconsistent tax systems among the states or even nations will increasingly serve to undermine economic productivity and growth." Or the idea that to get back to real fiscal health—and to maintain it—will require tax-policy revisions on a "whole of government basis," involving "a need to recast and update tax systems at all levels of government to be better aligned with trends in a rapidly globalizing and changing economy."

In the end, there's little reason to think that the eminently sensible NAPA recommendations will become part of the national political discussion anytime soon. Still, it would be nice to figure out a way to hammer home such a message with some kind of consistency. The mere fact that NAPA was able to generate a reasonable amount of unity among a group of high-level federal, state and local officials—even for just one day—makes it an exercise that would be well worth repeating.

—Jonathan Walters

Jonathan Walters can be reached at jowaz22@gmail.com

Provided by Senator Dys...
2/18/07

SB

33

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/16/07

FURTHER: Judiciary
Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered SENATE BILL NO. 33

SB 33 DNA FROM PERSONS CHARGED WITH FELONIES

"An Act relating to DNA samples from persons charged with felonies."

and recommends:

- be replaced with SCS or CS SB 33 (STA)
- adopt previous SCS or CS _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOC	03/07			✓	
LAW	03/08			✓	
DPS	03/12	✓			
ADMN			✓		
ADMN			✓		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
				X	
	Green	✓			
	Bundie	✓			
CHAIR:	McBryne			X	

25-LS0260\E
Luckhaupt
3/16/07

CS FOR SENATE BILL NO. 33()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

#3

2 change
line 15
lines 23

BY

**Offered:
Referred:**

Sponsor(s): SENATOR BUNDE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to DNA samples from persons arrested for certain offences."**

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

3 *** Section 1. AS 44.41.035(b) is amended to read:**

4 (b) The Department of Public Safety shall collect for inclusion into the DNA
5 registration system a blood sample, oral sample, or both, from (1) a person convicted
6 in this state of a crime against a person or a felony under AS 11 or AS 28.35 or a law
7 or ordinance with elements similar to a crime against a person or a felony under AS 11
8 or AS 28.35, (2) a minor 16 years of age or older, adjudicated as a delinquent in this
9 state for an act that would be a crime against a person or a felony under AS 11 or
10 AS 28.35 if committed by an adult or for an act that would violate a law or ordinance
11 with elements similar to a crime against a person or a felony under AS 11 or AS 28.35
12 if committed by an adult, (3) a voluntary donor, (4) an anonymous DNA donor for use
13 in forensic validation, forensic protocol development, quality control, or population or
14 statistical data bases, [AND] (5) a person required to register as a sex offender or child
15 kidnapper under AS 12.63, and (6) a person arrested for a crime against a person

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or a felony under AS 11 or AS 28.35, or a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35. The department also may collect for inclusion into the DNA registration system a blood sample, oral sample, or tissue sample from crime scene evidence or from unidentified human remains. The DNA identification registration system consists of the blood, oral, or tissue samples drawn under this section, any DNA or other blood grouping tests done on those samples, and the identification data related to the samples or tests. Blood samples, oral samples, and tissue samples not subject to testing under this section, and test or identification data related to those samples, may not be entered into, or made a part of, the DNA identification registration system.

* Sec. 2. AS 44.41.035(i) is amended to read:

(i) The Department of Public Safety shall, upon receipt of a court order, destroy the material in the system relating to a person. The court shall issue the order if the person's DNA was included in the system under

or minors under 16 or minor of 11.5.

(1) (b)(1) or (2) of this section and the court [IT] determines that

(A) [(1)] the conviction or adjudication that subjected the person to having a sample taken under this section is reversed; and

(B) [(2)] the person

(i) [(A)] is not retried or readjudicated for the crime; or

(ii) [(B)] after retrial, is acquitted of the crime or, after readjudication for the crime, is not found to be a delinquent; or

(2) (b)(6) of this section and the court determines that

(A) the person arrested was released without being charged; or

(B) the criminal complaint, indictment, presentment, or information has been dismissed.

* Sec. 3. AS 44.41.035(l) is amended to read:

(l) The Department of Public Safety may not include in the DNA registration system a blood sample, oral sample, or tissue sample of the victim of a crime, unless that person would otherwise be included under (b)(1) - (6) [(b)(1) - (5)] of this section.

25-LS0260\C
Luckhaupt
3/5/07

★ ADOPTED ★
CS FOR SENATE BILL NO. 33()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR BUNDE

A BILL

FOR AN ACT ENTITLED

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7 or ordinance with elements similar to a crime against a person or a felony under AS 11
8 or AS 28.35, (2) a minor 16 years of age or older, adjudicated as a delinquent in this
9 state for an act that would be a crime against a person or a felony under AS 11 or
10 AS 28.35 if committed by an adult or for an act that would violate a law or ordinance
11 with elements similar to a crime against a person or a felony under AS 11 or AS 28.35
12 if committed by an adult, (3) a voluntary donor, (4) an anonymous DNA donor for use
13 in forensic validation, forensic protocol development, quality control, or population or
14 statistical data bases, [AND] (5) a person required to register as a sex offender or child
15 kidnapper under AS 12.63, and (6) a person charged in a criminal complaint.

1 indictment, presentment, or information with a crime against a person or a
 2 felony under AS 11 or AS 28.35, or a law or ordinance with elements similar to a
 3 crime against a person or a felony under AS 11 or AS 28.35. The department also
 4 may collect for inclusion into the DNA registration system a blood sample, oral
 5 sample, or tissue sample from crime scene evidence or from unidentified human
 6 remains. The DNA identification registration system consists of the blood, oral, or
 7 tissue samples drawn under this section, any DNA or other blood grouping tests done
 8 on those samples, and the identification data related to the samples or tests. Blood
 9 samples, oral samples, and tissue samples not subject to testing under this section, and
 10 test or identification data related to those samples, may not be entered into, or made a
 11 part of, the DNA identification registration system.

12 * Sec. 2. AS 44.41.035(i) is amended to read:

13 (i) The Department of Public Safety shall, upon receipt of a court order,
 14 destroy the material in the system relating to a person. The court shall issue the order
 15 if the person's DNA was included in the system under

16 (1) (b)(1) or (2) of this section and the court [IT] determines that

17 (A) [(1)] the conviction or adjudication that subjected the
 18 person to having a sample taken under this section is reversed; and

19 (B) [(2)] the person

20 (i) [(A)] is not retried or readjudicated for the crime; or

21 (ii) [(B)] after retrial, is acquitted of the crime or, after
 22 readjudication for the crime, is not found to be a delinquent; or

23 (2) (b)(6) of this section and the court determines that the criminal
 24 complaint, indictment, presentment, or information has been dismissed.

25 * Sec. 3. AS 44.41.035(l) is amended to read:

26 (l) The Department of Public Safety may not include in the DNA registration
 27 system a blood sample, oral sample, or tissue sample of the victim of a crime, unless
 28 that person would otherwise be included under (b)(1) - (6) [(b)(1) - (5)] of this section.



Senator Con Bunde
Senate District P
Alaska State Legislature

Member: Senate State Affairs Committee
Member: Senate Labor & Commerce Committee
Member: Joint Legislative Committee on Ethics

Sponsor Statement

SB 33 DNA from Persons Charged with Felonies and Crimes Against a Person

Currently our law enforcement officials may only collect DNA samples from persons *convicted* of a felon or crime against another person. Within these parameters, they are limited in their ability to solve crimes as expediently or as efficiently as they could. Often the suspects arrested are also related to other unsolved crimes, and collecting their DNA upon arrest could give law enforcement important leads. And on the flip side, DNA sampling can work for the innocent who are mistakenly incarcerated, only to reveal their DNA does not match the evidence initially provided.

SB 33 would allow law enforcement to take a blood or tissue DNA sample at the *time of arrest* for a felony or crime against a person. By doing so they would be able to use the sample to check against other pending or unsolved crimes. If it turns out the arrest is erroneous or the conviction is reversed or dismissed, the DNA sample, by law, will be required to be destroyed and expunged from their database.

Collection of the DNA is specifically for law enforcement purposes only. Federal law imposes a fine of \$250,000 or imprisonment for one year for intentional misuse or unauthorized disclosure of DNA data, providing protection for the innocent and the erroneously accused.

With Alaska's violent and felony crimes showing a marked increase, SB 33 would give our law enforcement another tool to expeditiously convict felons and protect the public.



25th ALASKA STATE LEGISLATURE

SENATE REPUBLICAN CAUCUS

SENATOR GENE THERRIAULT, MINORITY LEADER
STATE CAPITOL, ROOM 427, 465-4797 (FAX 465-3884)

www.aksenateminority.com

SENATOR CON BUNDE
SENATOR FRED DYSON
SENATOR TOM WAGONER
SENATOR GARY WILKEN

Fact Sheet for: Senate Bill 33

Contact: Jane Alberts, 465-4843

Bill Version: SB 33

Sponsor: Senator Con Bunde

Short Title: DNA FROM PERSONS CHARGED WITH FELONIES

Summary:

- Allows the Department of Public Safety to collect a DNA sample from a person charged with a felony under Alaska's criminal code for inclusion in the DNA registration system.
- Requires the department to destroy the sample upon receipt of a court order that the charge has been dismissed.

Benefits:

- Provides valuable information to help law enforcement officials solve crimes.
- Protects defendants' rights by requiring the destruction of the DNA sample if the person is acquitted.

Background:

- Currently Alaska's law enforcement officials may only collect DNA samples from convicted felons. This restriction limits the ability to solve crimes as expeditiously or as efficiently as possible. Often the suspects arrested are also associated with other unsolved crimes, and collecting their DNA upon arrest could give law enforcement important leads. It should be noted that federal law requires the Department of Public Safety to remove the DNA sample from the database if the suspect is not convicted. This protects the innocent and clears the record of those who are erroneously accused.

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PASS KATIE'S LAW
SOLVE CRIMES, SAVE LIVES

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November 20, 2006

The Honorable Con Bunde
716 W 4th Ave Ste 410
Anchorage, AK 99501-2107

Dear Senator Bunde:

The Alaska State Legislature has an important opportunity to close a loophole in public safety laws that allows violent criminals to come in and out of the criminal justice system without ever being identified for their heinous crimes. Even more tragically, these criminals are frequently released back into our neighborhoods where they remain free to victimize even more citizens. I hope that in 2007, Alaska will act to stop their crime sprees by enacting legislation to require DNA upon arrest for certain crimes.

In August of 2003, Katie Sepich, a beautiful, vivacious 22-year old, was working towards her MBA at New Mexico State University. But perhaps we are biased – we are her parents. Tragically, on the 31st of that month Katie was brutally raped and murdered, her body set on fire and left in an old city dump. Despite a concentrated effort by local law enforcement, there simply was not much evidence found from the crime and Katie's killer has not been identified. But his DNA profile has.

In the aftermath of Katie's death we discovered that most states do not permit law enforcement the vital investigatory tool of taking a DNA sample from persons arrested for serious crimes. Instead, most states make the criminal justice system wait until after a conviction has been secured before the DNA collection and analysis process is allowed to begin. We could not believe that the same reasoning used to take fingerprints upon arrest is not yet being applied to DNA. Too many criminals have arrest records that span years before a felony conviction is ever obtained. Moreover, federal law requires a process to be available to remove a DNA sample from the database if the arrest does not result in a conviction. In this, federal law ensures the DNA database is truly a tool used solely to find criminals, and not an effort to database the innocent.

Our best hope to catch Katie's killer is that someday he will be included on the DNA database. At first, this is all we wanted; to find and punish our Katie's murderer. But as we learned more about how DNA can solve crimes, we also learned that taking DNA upon arrest can do so much more—it can save lives. We accept the possibility that Katie's killer may never be brought to justice. But we do not accept that there is nothing we can do to help stop this horrible pain from visiting other families. DNA has the power not just to solve crimes, but also to prevent them – and legislators can make that happen.

In a study from the City of Chicago, eight chilling serial cases were identified of lives that were lost or irretrievably altered – 60 victims in all – and in each case a crime that could have been prevented had police been allowed to take a DNA sample for a prior felony arrest. We know who most of these criminals are. They frequent our criminal justice system. But without a law to require DNA collection, their prior crimes will remain unsolved and too many are freed to roam our streets again.

We fought to have a 2006 law passed in New Mexico to mandate DNA collections for most felony arrests for comparison against state and national databases. The bill passed both chambers in less than thirty days with a unanimous House vote and only five “no” votes in the Senate. “Katie's Law” was endorsed by the Governor, Lt. Governor, Attorney General and media outlets throughout the state. But our work is not done. There are still 43 states without this life-saving law.

We hope you will support this life-saving legislation and would be honored to assist you with introducing and passing “Katie's Law” in Alaska to require DNA from felony arrestees. I know that those in government who take a leading role in the passage of this law will be heroes in the eyes of their constituency. I have enclosed some documents for your consideration, and also encourage you to visit www.dnaresource.com for more information. The Gordon Thomas Honeywell Government Affairs firm has also offered its aid in this effort – Lisa Hurst is available for assistance with research, bill drafting, and development of additional support materials (202-251-8978 or lhurst@ath-gov.com).

Sincerely,

Dave & Jayann Sepich



Forensic DNA Testing *Fingerprints of the 21st Century*

Frees the Innocent as soon as possible and will not permit someone falsely accused to remain in jail when they should be freed. Consider the following exonerations in recent news:

Arkansas – Man detained in jail since April 2004 on murder charges finally released on December 31, 2004 after DNA evidence from the murder is not a match. (9 months incarceration without trial)

Arkansas Democrat-Gazette, February 20, 2005.

New Jersey -- Man detained in jail on rape charges since 2003 finally released March 2, 2005 after DNA evidence from the rape is not a match. (Over one year incarceration without trial)

Courier News, March 4, 2005.

Oregon – Man detained in jail since January 2006 on attempted murder charges finally released in July when analysis of DNA evidence from the crime is not a match. (Six months incarceration without trial)

Columbian, July 12, 2006.

West Virginia – Man detained in jail on rape charges since April 2004 finally released in February 2005 after DNA evidence from the rape is not a match. (10 months incarceration without trial)

The Associated Press, March 15, 2005.

Solves crime faster and keeps the guilty behind bars. Collecting DNA from arrestees means identifying criminals at an earlier stage in the criminal justice process, and will allow for more efficient prosecution practices. Virginia, which began collecting DNA from arrestees in 2003, has already solved 222 crimes through links to arrestees.

Prevents crime. A Chicago study has documented 60 *violent* crimes that could have been prevented if the perpetrator had been required to submit a DNA sample for a prior felony *arrest*. These 60 victims are a tragic testament to the potential for DNA testing of arrestees to halt the needless victimization of state residents.

Purges racial bias from the criminal justice system. The science of DNA is blind to race, and requiring DNA from all felony arrestees will ensure that those who are wrongfully accused of serious crimes will be freed in a timely manner. They will not become victims themselves of an overburdened system, with many wrongfully accused slipping through the cracks.

Minimally invasive and not similar to predictive genetic testing. Forensic DNA testing conducted on cheek cells gives only the most basic data necessary for a unique forensic identity. Crime labs do not have the personnel, training, software, time or money to screen DNA samples for predictive health tests. Moreover, such tests would serve no purpose to criminal investigations.

Federal and state laws strictly prohibit and harshly penalize any misuse of DNA samples collected for database purposes. Misuse includes disclosure of samples or related data for any use not related to law enforcement. The privacy of the forensic DNA samples is tightly guarded.

Use is specific to law enforcement. *Unlike fingerprints*, DNA databases are not, and cannot, be checked for the general purpose criminal history background checks that are often completed for employment screening by using fingerprints. By law, DNA taken from arrestees can only be used for comparison against profiles from unsolved crimes.

Not an effort to create a database of the innocent. DNA samples can be routinely expunged upon acquittal or dropped charges. Additionally, samples that are not expunged will have no impact on a person's criminal history record – the DNA database is only checked for linkages to DNA profiles found at unsolved crime scenes.

CAPTURING DNA'S CRIME FIGHTING POTENTIAL

By Donna Lyons

A bedroom window left open on a warm summer night. A little girl sexually assaulted and beaten to death. It was a "cold case" suited for a TV drama, but unfortunately it was not fiction. The recently solved 1986 murder of an 11-year-old Fort Worth, Texas, child is just one of a growing number of cold cases being investigated and solved today as a result of advances in DNA technology.

"Cold case squads" devoted to unsolved

DNA database. By 1999, every state had one. Lawmakers have continued to add categories of offenders who must provide samples.

"Commit a burglary in most any state, and your DNA will be added to a database. Even some misdemeanors in half of the states require a DNA sample," Asplen says.

PROLIFIC PROFILES

Forty-three states now have laws to collect DNA samples from all convicted felons, swelling the numbers of genetic profiles in state databases.

In 1992, the FBI nationalized the system

and juveniles charged with many serious crimes if probable cause has been determined.

"It was presented to us as the 'modern fingerprint,'" says Senator Jane Ranum of Minneapolis. "Some of us believed that there at least needed to be a probable cause determination in order to take someone's DNA. I'm more comfortable with how we passed it, requiring that judicial finding."

The law also requires destroying the DNA samples of people who later have charges dismissed. An attorney and former prosecutor, Senator Ranum says that enthusiasm to

DNA databases are expanding and solving many cold cases, but crime labs often lack the cold cash to fulfill their potential.

homicides now exist in most big city police departments. In Fort Worth, a single detective who investigates such cases was able to link the crime to a family acquaintance who had attended the girl's funeral. A DNA sample obtained from the convicted felon was matched to the case via a DNA database. Such "hits" are becoming routine as state and national databases hold more and more samples.

"The bigger the DNA database, the more successful," says Chris Asplen, vice president of the law firm Smith Alling Lane. As U.S. assistant attorney, he directed the Commission on the Future of DNA Evidence for attorneys general Janet Reno and John Ashcroft. "We get the most bang for the buck. We know the most valuable investment in forensics is to process DNA samples and evidence."

Virginia, in 1989, was the first state with a

with CODIS, the Combined DNA Index System. Now housing nearly 1.5 million samples, the system enables federal, state and local officials to exchange and compare DNA profiles electronically, scanning for matches between crime evidence and convicted offenders.

"Google it any day of the week and you'll see cold cases being solved as a result of DNA databases," says John Morgan, director of the Office of Science and Technology for the National Institute of Justice. The question before lawmakers, he says, is "how far are you willing to go with it?"

California, Louisiana, Minnesota, Texas and Virginia allow samples from people arrested but not yet convicted to be added to the state database. In the United Kingdom, every person arrested provides a DNA sample. Officials there think that within 15 to 20 years, they will have one-third of the male population of the U.K. in the database.

A Minnesota provision passed last year expands DNA sample collection to adults



SENATOR
JANE RANUM
MINNESOTA

expand DNA collection to arrestees should not overlook the potential impact on individual liberties and groups of people.

"We need to think about how, when we expand DNA databases to protect the public, we protect against creating new ways in which the criminal justice system has a disparate effect on minorities," she says.

Concerns about civil liberties raised by government genetic databases often are overshadowed by practical concerns about capacity and funding to process all of the DNA samples called for under state laws. Also troubling is that the use of and demand for DNA in criminal justice has exposed quality assurance problems in some crime labs.

BACKLOGS PERSIST

State forensic labs haven't been able to keep up with the dramatic increases in demand,

Donna Lyons heads NCSL's Criminal Justice Program in Denver, Colorado.

according to Morgan. The Justice Department estimates that as many as 1 million DNA samples are owed to a database—that is, people who are required under their state law to provide a sample but have not done so.

"This includes people being released from prisons and going back into your communities," Morgan says.

There also are significant backlogs in testing and processing samples that have been collected, perhaps another half million. And evidence from homicides, sexual assaults and property crimes are similarly backlogged.

Some states have slowed and prioritized the collection and analysis of DNA samples to try to keep from getting too far behind. Many crime labs lack up-to-date technology that would provide for faster and more cost-effective analysis. Training in new technologies to meet new requirements also is an ongoing need in law enforcement.

The president's DNA Initiative proposed more than \$1 billion in funding over five years to improve the use of DNA at federal, state and local levels. Although not yet fully funded, Department of Justice grants to states are helping to jumpstart processing of casework and convicted offender samples, as well as providing for training, research and development.

The federal Justice for All Act of 2004 expanded existing grant programs both in amount and scope. Authorization for grants was extended through 2009 at \$20 million per year. The law provides not just for DNA analysis but also other forensics including ballistics examination, latent prints and toxicology.

Money devoted to catch-up processing of backlogged evidence and samples can have quick and dramatic results, Morgan says. "An \$11,000 grant to Kansas City solved nine rapes and 22 homicides," he says.

QUALITY ASSURANCE

To qualify for funds, the Justice for All Act requires that states conduct independent external investigations into any allegations of negligence or misconduct at crime labs.

In response, Texas lawmakers last session created the Texas Forensic Science Commission, in the wake of allegations of serious problems in several police forensic labs, especially in Houston.

The DNA section of the Houston lab was closed two years ago when an audit revealed contaminated evidence, poor documenta-

tion of results, insufficient staffing and training. Thousands of potentially affected cases were reviewed, including some involving defendants sentenced to death. At least two wrongful convictions have been identified and individuals were released from prison when re-examination of their cases revealed mishandled evidence.

"The problems at the Houston crime lab

dence used in court be from a certified lab.

"This should significantly improve the science and quality of evidence in Texas courtrooms," Whitmire says.

THE CSI EFFECT

So remarkable is the impact of forensic DNA that art is imitating and influencing real-life criminal justice.



SENATOR
JOHN WHITMIRE
TEXAS

played a major role in passing this legislation," says Senator John Whitmire, a Houston lawyer and chair of the Senate Criminal Justice Committee. "There was a mounting number of cases, which made quality assurance a statewide concern. It was an alarming call to the Legislature to step in," he says.

The commission is charged with investigating any suspected misconduct or incompetence that results in flawed forensic science. The appointed members of the commission will identify sources of such problems, recommend corrective action and follow up to make sure any problems are resolved, says Whitmire.

The Texas legislation also expanded the collection of DNA samples to all prison inmates and provided updated rules for the Department of Public Safety's use of the DNA database. It also requires that forensic evi-

DNA has prompted a whole new genre of TV crime dramas in which complicated and old cases are quickly and easily solved with DNA analysis and other high-tech forensic science. This, in turn, is said to be affecting actual criminal cases, especially the juries that hear them.

Prosecutors, defenders and judges call it the "CSI effect," referring to the hit CBS television drama "CSI: Crime Scene Investigation." CSI and spin-off shows are influencing juries that increasingly expect forensic evidence to be available and infallible. Without it, convictions are harder to get.

A recent CSI episode had actor William Peterson as lead investigator Gil Grissom remarking, "Physical evidence doesn't lie. It's not influenced by prejudice or emotion."

This raising of the bar in what is expected of forensic science is a mixed blessing, says Asplen. "Obviously these shows push the envelope in terms of how we actually are able to use DNA and other forensic technology out in the field," he says.

"But from a policy standpoint, it means the general public, those serving on juries, recognize its great power and potential," Asplen says. "It's another reason that government should want to maximize its use." ■



NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

**State Laws on DNA Data Banks
Qualifying Offenses, Others Who Must Provide Sample**

January 2007

All 50 states require that convicted sex offenders provide a DNA sample, and states are increasingly expanding these policies to include all felons or many serious felony offenders. To date, 44 states require that all convicted felons provide a DNA sample to the state's database.

Nine states to date include certain misdemeanors among those who must provide a DNA sample. Some are misdemeanors for which sex offender registration is required; others states specify certain sex offenses or child victim offenses.

Seven states, California, Kansas, Louisiana, Minnesota, New Mexico, Texas and Virginia, also now have laws authorizing arrestee sampling. The Texas law allows post-indictment samples of certain sex offenders. Minnesota's passed in 2005, similarly requires a DNA sample after probable cause determination in a charge of one of many serious felonies. California's Proposition 69, approved by voters on November 2, 2004, requires DNA samples of adults arrested for or charged with a felony sex offense, murder or voluntary manslaughter, or attempt of these crimes. Starting in 2009, the measure requires arrestee sampling be expanded to arrests for any felony offense. The same measure expanded DNA testing to all convicted felons. In 2006, Kansas added the requirement that felony or drug sentencing guidelines grid level 1 or 2 crime arrestees provide a DNA sample; and will expand in mid-2008 to all felony arrestees. New Mexico also enacted arrestee samples from specified violent felons in 2006.

DNA data bases in all states today are connected to the National DNA Index System, which is run by the Federal Bureau of Investigation for federal and state information sharing.

State	All Felonies	Some Juveniles	Some Misdemeanors	Some Arrestees	Not Guilty By Mental Defect Or GBMI	Other
Alabama	X					
Alaska	X	X				
Arizona	X	X				Includes residential and criminal burglary.
Arkansas	X	X (violent crimes only)	X Some sexual offenses		X	
California	X	X		X expansion to all felon arrestees starts in 2009		Includes those convicted of terrorist activity in violation of weapons of mass destruction provisions; and those convicted of a qualifying offense in another state.
Colorado	X	X				Includes any person who has a duty to register as a sex offender, including probationers, habitual offenders as condition of parole, and those released without parole supervision.



State	All Felonies	Some Juveniles	Some Misdemeanors	Some Arrestees	Not Guilty By Mental Defect Or GBMI	Other
Connecticut	X				X	Includes persons on probation or parole prior to discharge from supervision.
Delaware	X		X Certain child endangerment or abandonment crimes			
Florida	X	X			X	Includes persons on probation, parole, release or supervision following conviction of certain offenses.
Georgia	X	X				
Hawaii	X	X			X	Includes qualifying persons in prison, on probation or parole, parole violators.
Idaho		X				Most felons are included.
Illinois	X	X	X Any person required to register as a sex offender, includes some misdemeanors.			Includes people held under civil commitment under sexually dangerous those law, those found guilty but mentally ill for a sex offense, persons seeking transfer to state under interstate compact, stalking and residential burglary.
Indiana	X					Includes qualifying offenders on probation or parole.
Iowa	X	X	(May occur only by court or parole board order)		X	Includes qualifying parolees and offenders on work release, and offenders receiving a deferred judgment of felony.
Kansas	X	X		X felony or drug grid level 1 or 2; expands after June 30, 2008 to include all persons arrested for a felony.		Includes any crime covered under offender registration law, many serious felonies, some drug offenses.
Kentucky		X				Includes those convicted of unlawful transaction with a minor, promoting sexual performance of a minor, burglary I and II and class A and B felonies involving death or serious injury to the victim.
Louisiana	X	X		X Authorized to extent funding is available		
Maine	X	X	(May include a lesser included offense if a qualifying offense was originally charged.)			Includes all Class A, B, C serious crimes.
Maryland	X	X				Includes some misdemeanors.
Massachusetts	X	X				
Michigan	X	X				



State	All Felonies	Some Juveniles	Some Misdemeanors	Some Arrestees	Not Guilty By Mental Defect Or GBMI	Other
Minnesota	X	X	(May include offenses "arising out of same set of circumstances.")	X Specified serious crimes upon judicial finding of probable cause.		
Mississippi	X					
Missouri	X					
Montana	X	X				
Nebraska						
Nevada			X Failure to register as a convicted person.			Includes all class A or B felonies, or a category C felony that involved use or threatened use of force; also includes some drug offenses.
New Hampshire		X				Includes violent crimes.
New Jersey	X	X	X Any crime for which a sentence of imprisonment of 6 months or more is imposed.		X	
New Mexico	X	X			X Specific violent felonies	
New York	X		X Many misdemeanors.			Includes many serious felonies and some controlled substance offenses.
North Carolina	X				X	Includes persons on community supervision.
North Dakota	X					Many serious felonies, including burglary.
Ohio	X	X	X Certain child victim offenses.			
Oklahoma	X					2001 law requires planning to incrementally add qualifying felonies to the database, to include all felony offenses by 2006.
Oregon	X	X				
Pennsylvania		X				Includes violent and sexual offenders.
Rhode Island	X					
South Carolina	X	X	(May be required by court order for any offense.)			Includes qualifying offenders on community supervision.
South Dakota	X	X				
Tennessee	X	X				Includes those persons seeking transfer to the state under interstate compact who have committed qualifying offense.
Texas	X	X	(May be required by court order for any offense.)	X Post-indictment only in certain sex crimes.		Expanding to all felons contingent upon federal funds.



State	All Felonies	Some Juveniles	Some Misdemeanors	Some Arrestees	Not Guilty By Mental Defect Or GBMI	Other
Utah	X	X	X Class A misdemeanors. (Others may qualify if convicted on lower degree of qualifying offense.)		X	Includes persons convicted in another state of a qualifying offense.
Vermont	X		(Only if as part of a plea agreement.)			
Virginia	X	X		X Violent felonies, including attempts.		
Washington	X	X				Includes those who have been convicted out of state or under federal law of a violent offense.
West Virginia	X					
Wisconsin	X	X	X Some misdemeanors for which sex offender registration is required.		X	
Wyoming	X	X				

For more information, contact NCSL's Denver office, (303)-364-7700; cj-info@ncsl.org.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: SB033-DOC-A&O-3-7-07
 Bill Version: SB 33
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title An Act relating to DNA samples from persons RDU Office of the Commissioner
 charged with felonies. Component Administration & Operations
 Sponsor Senator Bunde
 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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections will not have a fiscal impact due to passage of this legislation.

Prepared by: Sharleen Griffin, Director Phone (907) 465-3339
 Division Administrative Services Date/Time 3/7/07 12:53 PM
 Approved by: Dwayne Peeples, Deputy Commissioner Date 3/7/2007
 Agency Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: SB033-LAW-CJL-3-6-07
 Bill Version: SB 33
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title An Act relating to DNA samples from persons RDU Criminal
charged with felonies Component Criminal Justice Litigation
 Sponsor SENATOR(S) BUNDE
 Requester SENATE STATE AFFAIRS Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0
 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 amend current statute so as to allow The Department of Public Safety to collect for inclusion into the DNA registration system a blood sample, oral sample, or both, from a person charged in a criminal complaint, indictment, presentment, or information with a felony under AS 11.

The department does not anticipate any significant fiscal impact as a result of this legislation.

Prepared by: Robert Meiners, Acting Director Phone 465-5427
 Division: Administrative Services Division Date/Time 3/6/07 10:13 AM
 Approved by: Robert Meiners for Talls Colberg, Attorney General Date 3/6/2007
 Agency: Department of Law

SB

35

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 1/16/07

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered SENATE BILL NO. 35

SB 35 APPROP: FUNDS

"An Act making an appropriation to the public education fund; making an appropriation to the earnings reserve account of the Alaska permanent fund; making an appropriation to the Alaska housing finance revolving fund; making an appropriation to the constitutional budget reserve fund; and providing for an effective date."

and recommends:

- be replaced with SCS or CS SB 35 (STA)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____


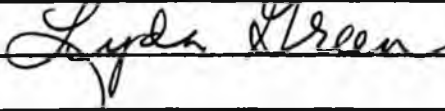
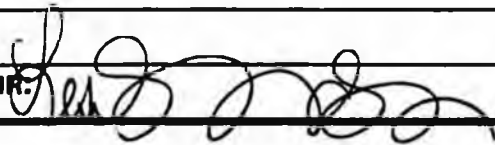
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO NOT PASS	DO NOT PASS	NO REC	AMEND
	French			x	
				✓	
CHAIR: 	McGuire	✓			

Alaska State Legislature

Session:

State Capitol, Rm. 125
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:

716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Senator Lesil McGuire

Chair, Senate State Committee

Fax

To: Leg Legal, Brian Kane **From:** Shalon Szymanski, SSTA Committee Aide

Fax: 2029 **Pages:**

Phone: **Date:** February 22, 2007

Re: Final CS Request (SB 35) **CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

● **Comments:**

SB 35 moved out of SSTA today.

If you have any questions, please feel free to contact me at 4522.

ALASKA STATE LEGISLATURE

Sen. Lesil McGuire, Chair
Sen. Gary Stevens, Vice-Chair
Sen. Lyda Green
Sen. Hollis French
Sen. Con Bunde



State Capitol, Room 125
Juneau, AK 99801-1182
(907) 465-2995
Fax (907) 465-6592

SENATOR LESIL McGUIRE
CHAIR, STATE AFFAIRS

Memorandum

To: Leg. Legal
From: Shalon Szymanski, Committee Aide
Senate State Affairs Committee
Date: February 22, 2007
Re: Final CS Request (SB 35)

Please create a Final Committee Substitute (STA) for work order # 25-LS0271\C, mirroring # 25-LS0271\C but also including the following:

- 1 Amendment (25-LS0271\C.1)

SB 35 did move out of committee today.

Thank you!

PASSED

25-LS0271\C.1
Kane
2/21/07

AMENDMENT # 1

OFFERED IN THE SENATE
TO: SB 35

BY SENATOR WILKEN

1 Page 1, line 3:

2 Delete "housing finance revolving fund"

3 Insert "Housing Finance Corporation"

4

5 Page 2, lines 1 - 5:

6 Delete all material and insert:

7 "* Sec. 3. ALASKA HOUSING FINANCE CORPORATION. The sum of \$250,000,000 is
8 appropriated to the Alaska Housing Finance Corporation for the purpose of funding capital
9 projects, including financing expenses, from the general fund available after all other
10 appropriations for the fiscal year ending June 30, 2007, are accounted for, but before the
11 deposit required under art. IX, sec. 17(d), Constitution of the State of Alaska, is made. It is the
12 intent of the legislature that the Alaska Housing Finance Corporation may transfer this money
13 and the earnings to a subsidiary of the Alaska Housing Finance Corporation on or after July 1,
14 2007, under AS 18.56.086."

GARY WILKEN
SENATOR
Fairbanks



State Capitol Building
Juneau, Alaska 99801-1182
Tel: 451-5501 (from Fbks)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714
www.akrepublicans.org/wilken
E-Mail: Senator.Gary.Wilken@legis.state.ak.us

SPONSOR STATEMENT

Senate Bill 35 Appropriation of Funds

"Bank a Billion"

The December revenue forecast by the Department of Revenue predicts record revenues for the current fiscal year due to the new Petroleum Profits Tax. Although this year's total revenue will not be officially known until March 31, 2007 or later, it is expected that Alaska will enjoy a revenue surplus of \$1.35 billion (*David Teal, Director, Division of Legislative Finance*). Senate Bill 35 saves this revenue surplus in four separate accounts, each with a distinctive focus.

To live within its financial means, the State of Alaska must *Bank a Billion* for the time when a reduction in oil production and lower crude oil prices may decrease our State revenue. Senate Bill 35 makes the following appropriations from the general fund on June 30, 2007 to our four savings accounts:

- \$250 million to the Public Education Fund,
- \$250 million to the Alaska Housing Finance Corporation capital account,
- \$250 million to the Permanent Fund Earnings Reserve Account, and
- \$250 million to the Constitutional Budget Reserve Account

The deposit of a billion dollars in four separate, unique accounts forces the Legislature to save for the future, a time when our State's financial picture might be different than today. I respectfully request your support.

A handwritten signature in black ink, appearing to read "Gary Wilken".

February 21, 2007



Alaska State Legislature
Senate Republican Minority
Web: www.aksenateminority.com

Sponsor: Senator Gary Wilken
Contact: Sheila Peterson, 465-3709
Bill Version: SB 35

Fact Sheet for: Senate Bill 35

Short Title: APPROPRIATION: FUNDS

Summary:

- Makes the following appropriations from the general fund on June 30, 2007:
 - \$250 million to the Public Education Fund
 - \$250 million to the earnings reserve account of the permanent fund
 - \$250 million to the Alaska Housing Finance Corporation revolving fund
 - \$250 million to the constitutional budget reserve account
- Reduces the appropriations in proportion to the amount of the shortfall if the amount of money in the general fund is less than \$1 billion on June 30, 2007.

Benefits:

- Saves this year's surplus revenue in four separate accounts, each with a unique focus.
- Allows the State to live within its means by saving surplus revenue for a time when lower oil and gas prices result in decreased revenue.
- Gives the Legislature access to the funds if specific needs arise.

Background:

- The December revenue forecast by the Department of Revenue predicts record revenues for the current fiscal year due to the new Petroleum Profits Tax, followed by an expected long term revenue decline because of decreasing oil production and lower crude oil prices. Although the total revenue tally will not be official until March 31, 2007, it is estimated that Alaska may enjoy a \$1.2 billion surplus for the 2007 fiscal year.

To live within its financial means, the State must save the surplus for the time when lower oil and gas prices decrease State revenue. The "Bank a Billion" legislation saves this year's surplus revenue in four separate accounts, each with its own unique focus. Although set aside for future use, the money could be accessed by the legislature for specific needs such as K-12 public education, and general capital construction projects.

Half of the surplus, \$500 million, is appropriated to two separate funds that are more politically protected and, therefore, more difficult to access. The legislature has the use of these savings, but the financial need must be proven to the satisfaction of the public before the legislature will respond.

SB

36

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/16/07

FURTHER: Judiciary
 Finance

Date of 5-Day Notice: 01/18/07
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

State Affairs Committee considered SENATE BILL NO. 36

SB 36 SENTENCING FOR ALCOHOL-RELATED CRIMES

"An Act relating to sentencing for the commission of certain offenses influenced by alcohol and to the offense of consumption of alcohol in violation of sentence."

and recommends:

- be replaced with SCS or CS SB 36 (STA)
- adopt previous SCS or CS _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
<input checked="" type="checkbox"/> Same Title
<input type="checkbox"/> New Title
HOUSE BILL:
<input type="checkbox"/> Same Title
<input type="checkbox"/> Technical Title Change
<input type="checkbox"/> New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
CRT	01/22		✓		
DOA	01/22		✓		
DOA	01/22		✓		
DOC	01/22		✓		
LAW	01/22			✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

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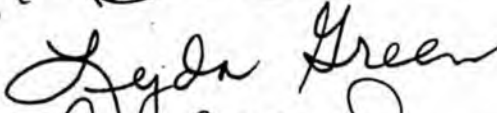
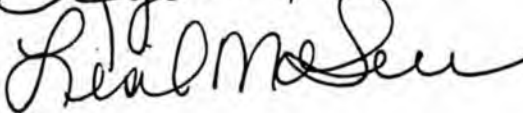
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SENATOR LESIL McGUIRE
CHAIR, STATE AFFAIRS

Letter of Intent SB 36 – “*Sentencing for Alcohol-Related Crimes*”

The legislature recognizes that laws alone may not achieve the same level of behavioral correction that counseling and treatment are designed to provide. It is therefore the intent of the legislature that the courts, when addressing those who are first time violators of AS 12.55.015 (a) (13) in this act, use when available, Therapeutic Court in lieu of a standard sentencing.

If openings in the Therapeutic Court are not available, the legislature intends that standard sentencing for a class A misdemeanor be carried out as set out in AS 11.56.768 (b) (d) of this Act.

 SEN. FRENCH
 SEN. GREEN
 CHAIR McGUIRE

**Addictions Treatment in Corrections:
Alaska Has the Opportunity to Provide Essential, Cost-effective Services**

- Research on Alaska's newly incarcerated prisoner population reveals the strong relationship between substance abuse and criminality: 91 % of the prisoners assessed had a substance use disorder some time in their lives, 79% in the last year severe enough to require treatment. *These rates are as high as or higher than any data previously reported in the scientific literature since standardized diagnostic studies of prisoners began two decades ago.*
- Over the last four years, funding for substance abuse treatment within correctional facilities operated by the Department of Corrections has decreased dramatically. Only three treatment programs for prisoners remain, two in Alaska and one in Arizona. These are Residential Substance Abuse Treatment programs (RSAT), one for men at Wildwood Correctional Center, one for women at Hiland Mountain Correctional Center and one for Alaska prisoner incarcerated in Arizona.
- RSAT is an intensive, six to 12 month program proven effective with high-risk offenders with lengthy criminal histories associated with substance abuse. **When checked six-months following release into the community, 84% of the women graduates and 83% of the men graduates followed through with aftercare recommendations, and 88% percent of the women graduates and 93% of the men graduates remained drug free.**
- While RSAT is a critical for substance abuse treatment of the offenders with lengthy criminal histories and the most serious addictions, it is not enough! The State of Alaska must invest in RSAT as well as a full continuum of services for those whose addictions are a contributing cause to their crimes.
- Even short-term treatment in prisons is crucial to cutting recidivism and will save the State of Alaska money. Research shows that the percent of former prisoners who reported any criminal activity declined by 60% after substance abuse treatment, and the average annual crime-related costs to society fell by \$8,611 per individual.**
- Now is the time to seize new opportunities for prisoner substance abuse assessment and treatment programs within the Department of Corrections. The State of Alaska must fund culturally appropriate and gender specific substance abuse treatment for inmates who need it, including special groups within the inmate population such as sex offenders and those dually diagnosed with mental illness and addictions.

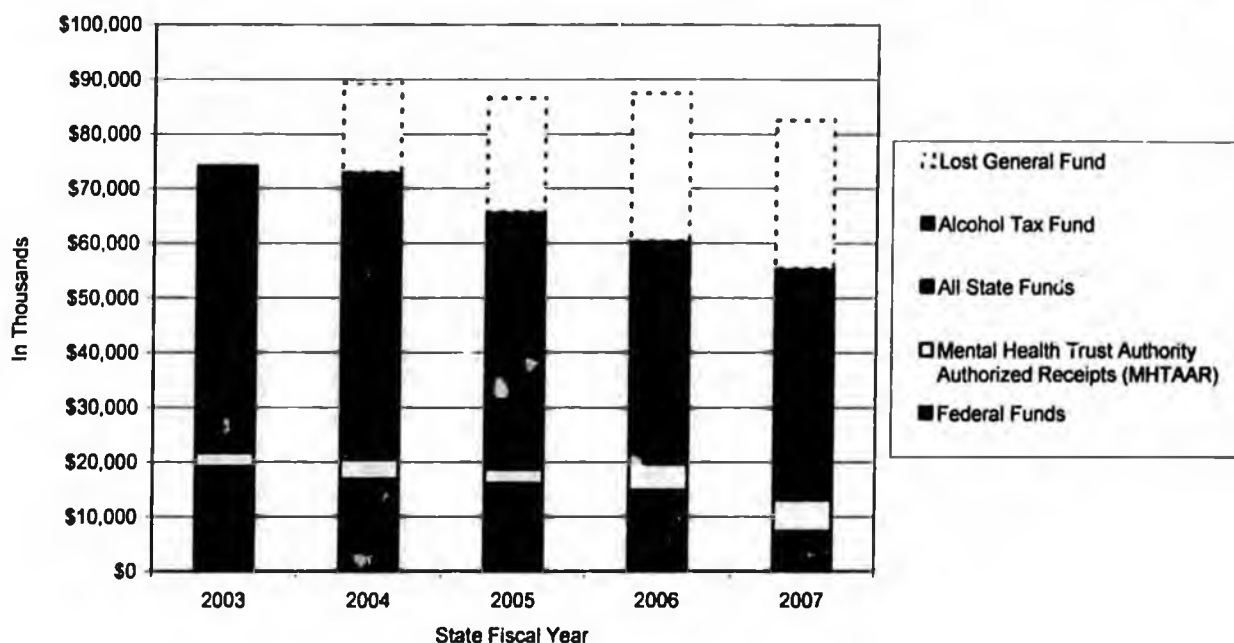
* State of Alaska, Department of Corrections. Women's evaluation, 2000; Men's evaluation, 2002

**Koenig, et al (1999). *National Treatment Improvement Evaluation Study*. SAMHSA

Millions of Dollars Earmarked for Substance Abuse Prevention and Treatment Are Not Being Used for the Intended Purpose by the Legislature

- In 2002, the 22nd Alaska Legislature passed HB 225 that increased the excise tax on alcoholic beverages by 7.5 cents per drink. The legislation, sponsored by Representative Lisa Murkowski, also created the Alcohol and Other Drug Treatment and Prevention Fund (ADTP) into which 50% of all alcohol taxes are now deposited.
- Each year, approximately \$17 million in alcohol taxes are deposited in the ADTP. With "carry over" from previous years, the fund is expected to hold over \$20 million in FY 07.
- In her sponsor statement, Representative Murkowski wrote that the fund "would help provide revenue needed for the expanded treatment, therapeutic courts, diversion programs and other initiatives now under consideration in the Legislature."
- But the Legislature has not expanded prevention and treatment services by adding ADTP dollars to General Fund/Mental Health dollars (GF/MH). Instead they took away GF/MH and replaced it with ADTP. The result? **No net increase for prevention and treatment.**
- In 2003, the cost of alcohol and drug abuse to Alaska's economy was estimated to be \$738 million in lost productivity, accidents, health care, criminal justice and public assistance.*
- In 2005, 18% of all adults and 21% of those between 18-24 reported binge drinking.**
- **If the ADTP fund was used as intended, to supplement, not supplant GF/MH spending, in FY 07, the State of Alaska would have an additional \$20 million for treatment and prevention of alcoholism and substance abuse. Supplement, don't supplant!**

General Funds for Behavioral Health Services Lost Due to Supplantation with Alcohol Tax Fund



Heard, and Held 01/23/07

*-not.mand.

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*-~~amending~~ note @ right → act's @ priv

SENATE BILL NO. 36

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATOR THERRIAULT

Introduced: 1/16/07

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sentencing for the commission of certain offenses influenced by
2 alcohol and to the offense of consumption of alcohol in violation of sentence."

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

4 * Section 1. AS 11.56 is amended by adding a new section to read:

5 **Sec. 11.56.768. Consumption of alcohol in violation of sentence.** (a) A
6 person commits the crime of consumption of alcohol in violation of sentence if the
7 person knowingly consumes alcohol in violation of an order imposed under
8 AS 12.55.015(a)(13), AS 28.35.030, or 28.35.032.

9 (b) In a prosecution under this section, it is an affirmative defense that

10 (1) the alcohol was consumed under the direction of, a health care
11 professional as part of medical treatment of the defendant; or

12 (2) the alcohol was consumed as a nonprescription medication in doses
13 and for the purposes recommended by the manufacturer of the medication or as
14 approved by the United States Food and Drug Administration.

1 (c) In this section, "consumption of alcohol" means to ingest, orally or
2 otherwise, alcohol or any substance containing alcohol.

3 (d) Except as provided in (e) of this section, consumption of alcohol in
4 violation of sentence is a class A misdemeanor. ^{is option} (therapeutic courts)(?)

5 (e) Consumption of alcohol in violation of sentence is a class C felony if the
6 defendant has been previously convicted of violating this section.

7 * Sec. 2. AS 12.55.015(a) is amended to read:

8 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing
9 sentence on a defendant convicted of an offense, may singly or in combination

10 (1) impose a

11 (A) fine when authorized by law and as provided in
12 AS 12.55.035; or

13 (B) day fine when authorized by law and as provided in
14 AS 12.55.036 if the court does not impose a term of periodic or continuous
15 imprisonment or place the defendant on probation;

16 (2) order the defendant to be placed on probation under conditions
17 specified by the court that may include provision for active supervision;

18 (3) impose a definite term of periodic imprisonment;

19 (4) impose a definite term of continuous imprisonment;

20 (5) order the defendant to make restitution under AS 12.55.045;

21 (6) order the defendant to carry out a continuous or periodic program
22 of community work under AS 12.55.055;

23 (7) suspend execution of all or a portion of the sentence imposed under
24 AS 12.55.080;

25 (8) suspend imposition of sentence under AS 12.55.085;

26 (9) order the forfeiture to the commissioner of public safety or a
27 municipal law enforcement agency of a deadly weapon that was in the actual
28 possession of or used by the defendant during the commission of an offense described
29 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

30 (10) order the defendant, while incarcerated, to participate in or
31 comply with the treatment plan of a rehabilitation program that is related to the

1 defendant's offense or to the defendant's rehabilitation if the program is made available
2 to the defendant by the Department of Corrections;

3 (11) order the forfeiture to the state of a motor vehicle, weapon,
4 electronic communication device, or money or other valuables, used in or obtained
5 through an offense that was committed for the benefit of, at the direction of, or in
6 association with a criminal street gang;

7 (12) order the defendant to have no contact, either directly or
8 indirectly, with a victim or witness of the offense until the defendant is
9 unconditionally discharged;

10 (13) order the defendant to refrain from consuming alcohol,
11 subject to AS 11.56.768, for a period of time up to the lifetime of the defendant,
12 including during the term of any sentence and as a condition of probation,
13 suspended sentence, and suspended imposition of sentence, if

14 (A) the defendant was convicted of a felony under AS 11.41
15 and the court finds by clear and convincing evidence that the defendant's
16 conduct constituting the offense was substantially influenced by the
17 consumption of alcohol; or

18 (B) the court finds by clear and convincing evidence that,
19 based on the defendant's history, there is reason to believe that imposing a
20 requirement that the defendant refrain from consuming alcohol is
21 necessary to protect the public and the defendant was convicted of a
22 violation of AS 28.35.030 or 28.35.032 and the defendant has been
23 previously convicted two or more times or the offense resulted in death or
24 serious physical injury to another person; in this subparagraph,
25 "previously convicted" has the meaning given in AS 28.35.030.

26 * Sec. 3. AS 12.55.015 is amended by adding a new subsection to read:

27 (j) Nothing in (a)(13) of this section limits or restricts the authority of a court
28 to order a person to refrain from the consumption of alcohol as a condition of sentence
29 or probation.

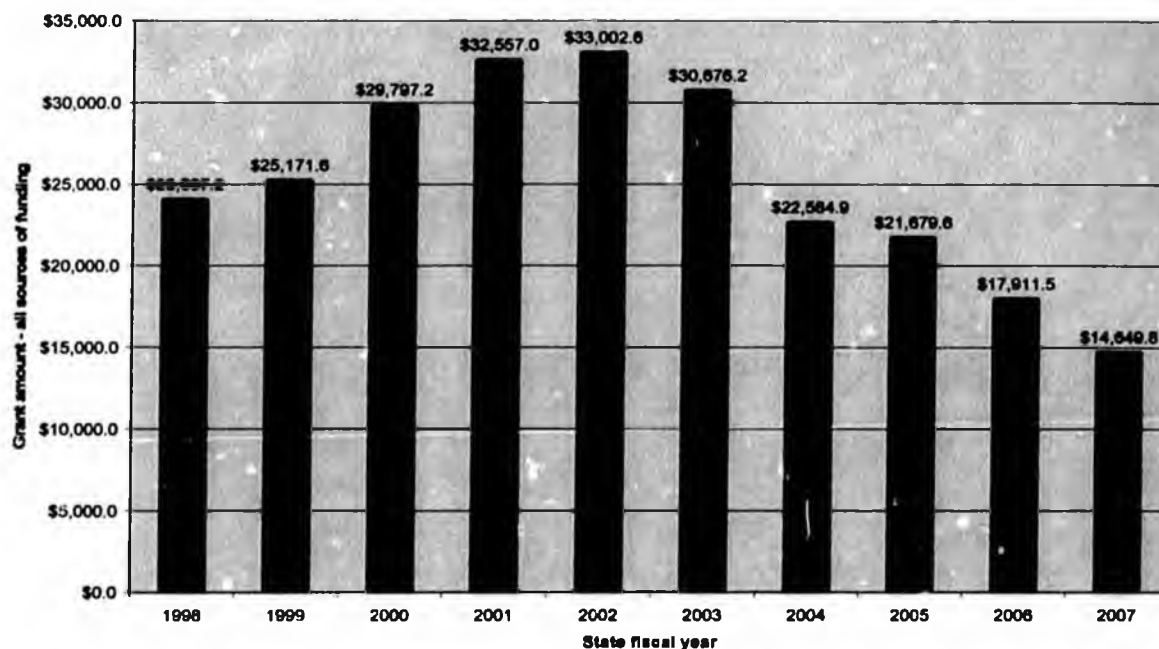
30 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 **APPLICABILITY.** This Act applies to offenses committed on or after the effective
2 date of this Act. References to previous convictions apply to convictions occurring before, on,
3 or after the effective date of this Act.

State Funding for Substance Abuse Prevention and Treatment Not Keeping Pace with Community Need

- In 2004, approximately 38,000 Alaskans age 12 and over either abused or were dependent on alcohol.*
- In 2005, 18% of all adults and 21% of those between 18-24 reported binge drinking.**
- In Alaska, 79% of newly incarcerated inmates were actively abusing or dependent on alcohol or other substances in the year before their incarceration.
- Children in alcohol-abusing families are almost four times more likely to be maltreated, and 10 times more likely to be neglected; 81% of all reports of harm against Alaska children involve substance abuse.
- In 2003, the cost of alcohol and drug abuse to Alaska's economy was estimated to be \$738 million in lost productivity, accidents, health care, criminal justice and public assistance.***
- Between FY 2002 and FY 2007, state funding for substance abuse treatment dropped by 56.2% or \$18.6 million.
- In 2004, over 35,000 Alaskans who needed treatment for alcohol abuse could not receive it due to lack of availability.* **Medicaid does not cover most substance abuse treatment.**
- **Just three years ago, GF appropriations for prevention and treatment of substance abuse were 50% higher than today. Increase GF appropriations to at least the FY 2005 level. Alaska cannot afford to ignore the costs of substance abuse to the state and to Alaskan families.**

Department of Health and Social Services Substance Abuse Grant Funding, FY 1998 - 2007



Alaska State Legislature

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Sponsor Statement SB 36

Alcohol Ban Option For Certain Violent Felons

In the interest of public safety and reducing the rate of recidivism among certain violent offenders, I have introduced Senate Bill 36 giving judges a new option when sentencing felons who commit crimes against persons. (As 11.41)

In instances that clear and convincing evidence shows a long-term pattern of alcohol abuse as a major contributing factor in the commission of a violent crime against a person, or in the case of extreme DUI convictions, a judge may impose as a condition of sentencing, up to a lifetime prohibition on the use of alcohol.

This legislation is intended to accomplish three main objectives. The first is to allow courts to remove a controlled substance from those who have a long track record of being dangerous when they use it. The second is to prevent future acts of violence by establishing a different threshold for re-arrest before actual violence may occur. The third goal is to establish a lifelong deterrent to offenders who might be tempted to use a substance that unleashes their violent nature.



Unhooked Science Readings

The unhooked.com science section contains selected educational readings from the scientific and popular literature about alcoholism, addiction, and recovery. The views expressed in the articles are those of their authors and not necessarily those of the science pagemaster or the webmaster or of the person who suggested the article to the list. This material is made available solely for the nonprofit educational use of unhooked.com readers as an aid in their personal recovery, and no other use is authorized or intended. [Click here for the current Science Section reading list.](#)

Domestic Violence & Alcohol and Other Drugs

"Alcohol is associated with a substantial proportion of human violence, and perpetrators are often under the influence of alcohol." Eighth Special Report to the U.S. Congress on Alcohol and Health (Secretary of Health and Human Services, September 1993)

Studies of domestic violence frequently document high rates of alcohol and other drug (AOD) involvement, and AOD use is known to impair judgment, reduce inhibition, and increase aggression. Alcoholism and child abuse, including incest, seem tightly intertwined as well. The connection between child abuse and alcohol abuse "may take the form of alcohol abuse in parents or alcohol intoxication at the time of the abuse incident." [1] Not only do abusers tend to be heavy drinkers, but those who have been abused stand a higher probability of abusing alcohol and other drugs over the course of their lifetime.

Alcohol consistently "emerges as a significant predictor of marital violence." [2] Alcoholic women have been found to be significantly more likely to have experienced negative verbal conflict with spouses than were nonalcoholic women. They were also significantly more likely to have experienced a range of moderate and severe physical violence.

Studies have shown a significant association between battering incidents and alcohol abuse. Further, a dual problem with alcohol and other drugs is even more likely to be associated with the more severe battering incidents than is alcohol abuse by itself. The need for preventing alcohol and other drug problems is clear when examining the following statistics are examined:

- In 1987, 64 percent of all reported child abuse and neglect cases in New York City were associated with parental AOD abuse. [3]
- A study of 472 women by the Research Institute on Addictions in Buffalo, NY, found that 87 percent of alcoholic women had been physically or sexually abused as children, compared to 59 percent of the nonalcoholic women surveyed (Miller and Downs, 1993). [4]
- A 1993 study of more than 2,000 American couples found rates of domestic violence were almost 15 times higher in households where husbands were described as often drunk as opposed to never drunk. [5]
- Battered women are at increased risk of attempting suicide, abusing alcohol and other drugs, depression, and abusing their own children. [6]
- Alcohol is present in more than 50 percent of all incidents of domestic violence. [5]

While alcohol and other drug use is neither an excuse for nor a direct cause of family violence, several theories might explain the relationship. For example, women who are abused often live with men who

drink heavily, which places the women in an environment where their potential exposure to violence is higher.

A second possible explanation is that women using alcohol and other drugs may not recognize assault cues and even if they do, may not know how to respond appropriately. Third, alcohol and other drug abuse by either parent could contribute to family violence by exacerbating financial problems, child-care difficulties, or other family stressors. Finally, the experience of being a victim of parental abuse could contribute to future alcohol and other drug abuse.

To reduce the incidence of these problems in the future, prevention of alcohol and other drug abuse must be a top priority. For more information, call the National Clearinghouse for Alcohol and Drug Information at 1-800-729-6686.

All statistics cited in this Making the Link fact sheet come from the following sources:

1. Widom, Cathy Spatz. "Child Abuse and Alcohol Use." Research Monograph 24: Alcohol and Interpersonal Violence: Fostering Multidisciplinary Perspectives. Rockville, MD: National Institute on Alcohol Abuse and Alcoholism, 1993.
2. Kantor, Glenda Kaufman. "Refining the Brushstrokes in Portraits of Alcohol and Wife Assaults." Research Monograph 24: Alcohol and Interpersonal Violence: Fostering Multidisciplinary Perspectives. Rockville, MD: National Institute on Alcohol Abuse and Alcoholism. 1993.
3. Chasnoff, I.J. Drugs, Alcohol, Pregnancy and Parenting, Northwestern University Medical School, Departments of Pediatrics and Psychiatry and Behavioral Sciences, Hingham, MA, Kluwer Academic Publishers, 1988.
4. Miller, Brenda A. and Downs, William R. "The Impact of Family Violence on the Use of Alcohol by Women," Alcohol Health and Research World, Vol. 17, No. 2, pp. 137-143, 1993.
5. Collins, J.J., and Messerschmidt, M.A. Epidemiology of Alcohol-Related Violence. Alcohol Health and Research World, 17(2):93-100. U.S. Department of Health and Human Services, National Institute on Alcohol Abuse and Alcoholism, 1993.
6. Fact Sheet on Physical and Sexual Abuse, Substance Abuse and Mental Health Services Administration, April 1994.

Spring 1995 NCADI Inventory Number ML001



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Vol. 150 No. 8, August 1996
ARTICLE

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Illicit substance use, gender, and the risk of violent behavior among adolescents

C. P. Dukarm, R. S. Byrd, P. Auinger and M. Weitzman
Division of Adolescent Medicine, University of Rochester (NY) School of Medicine and Dentistry, USA.

OBJECTIVES: To analyze data from a nationally representative sample of high school students to investigate the relationship between substance use and violent behavior among adolescents and to examine this relationship in both male and female adolescents. **DESIGN:** Cross-sectional analyses of the 1991 Centers for Disease Control and Prevention's Youth Risk Behavior Survey. **SETTING:** Public and private schools in the 50 states. **PARTICIPANTS:** The participants were 12,272 high school students. **MAIN OUTCOME MEASURE:** To determine the prevalence of weapon carrying and physical fighting among male and female adolescents. **RESULTS:** A significant increase in the number of female adolescents carrying weapons and physically fighting was associated with all forms of substance use. Reports of carrying a weapon increased with recent alcohol consumption (34% vs 17%, $P < .001$) and use of marijuana (48% vs 22%, $P < .001$), cocaine (71% vs 25%, $P < .001$), and anabolic steroids (62% vs 25%, $P < .001$). The prevalence of physical fighting was also significantly higher among adolescents who used illicit substances than among adolescents who denied drug use. The risk of violent behavior increased significantly, and was of equal magnitude, for adolescent females and males who used illicit substances. **CONCLUSIONS:** Alcohol and illicit substance use are highly associated with increased risk of violent behavior. These data also demonstrate that the risk of violence by adolescent females who are substance users is substantial.

THIS ARTICLE HAS BEEN CITED BY OTHER ARTICLES

Predictors of Aggression at School: The Effect of School-Related Alcohol Use

Finn and Frone
NASSP Bulletin 2003;87:38-54.
ABSTRACT

Jocks, Gender, Binge Drinking, and Adolescent Violence

Miller et al.
J Interpers Violence 2006;21:105-120.
ABSTRACT

Anabolic Androgenic Steroids and Aggression: Studies Using Animal Models

McGINNIS

Annals NYAS Online 2004;1036:399-415.

ABSTRACT | FULL TEXT

Characterization of Interpersonal Violence Events Involving Young Adolescent Girls vs Involving Young Adolescent Boys

Mollen et al.

Arch Pediatr Adolesc Med 2004;158:545-550.

ABSTRACT | FULL TEXT

A Cross-national Study of Violence-Related Behaviors in Adolescents

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Predicting Fatal Assault Among the Elderly Using the National Incident-Based Reporting System Crime Data

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Homicide Studies 2004;8:71-95.

ABSTRACT

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Early Risk Factors for Violence in Colombian Adolescents

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National Survey of Pediatricians' Violence Prevention Counseling

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ABSTRACT | FULL TEXT

African American Mothers in South Central Los Angeles: Their Fears for Their Newborn

Schuster et al.

Arch Pediatr Adolesc Med 1998;152:264-268.

ABSTRACT | FULL TEXT

Demographic, Intrinsic, and Extrinsic Factors Associated With Weapon Carrying at Sch

Kodjo et al.

Arch Pediatr Adolesc Med 2003;157:96-103.

ABSTRACT | FULL TEXT

Adolescent Suicide Attempts: Risks and Protectors

Borowsky et al.

Pediatrics 2001;107:485-493.

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* HOME Alcohol Controversies

Alcohol and Sexual Assault: The Connection

by **Scott Hampton, Psy.D.**

Alcohol and sexual assault often happen together. According to some research, 30 percent of all sexual assaults occur when the perpetrator is under the influence of alcohol. In some cases, the victim is also intoxicated. Drinking makes it easy for the perpetrator to ignore sexual boundaries, while the victim's intoxication makes it more difficult for her to guard against an attack.

A common misunderstanding is that if people commit sexual assaults only when drunk, then (a) the drinking must have caused the assault and (b) sobriety and alcohol counseling are adequate to prevent future assaults. These erroneous conclusions confuse correlation and causation. To illustrate consider the correlation between consciousness and sexual assault. Perpetrators of sexual assault typically commit sex assaults only when they are awake, but it would be ridiculous suggest that being awake caused them to commit sexual assaults. So, what is the relationship between alcohol and sexual violence?

First, alcohol use does not cause sexual violence. Putting alcohol into your system does not cause you to commit a s assault anymore than putting gasoline into your car causes to drive to the airport. Gasoline makes it easier to do what

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[Alcohol and Bad Behavior](#)

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want to do (e.g., drive a car) while alcohol also makes it easier to do what you want to do (e.g., grope women). If you do at least think about doing something when sober, you are more likely to do it when drunk. For example, no one worries about becoming so intoxicated that he will lose control and stab himself in the eye with a fork. Why? Because he would never consider doing that when sober.

Alcohol acts as a permission slip. By reducing inhibitions, alcohol often makes it more likely that someone will choose to sexually assault another person. As one man in a violent offender program noted, "When I first came to your program I told you that I hit my wife because I was drunk; now I realize that I drank so that I could hit her." He realized that alcohol was not an excuse or even an explanation for the abuse. Instead, alcohol was a way that he had tried to avoid responsibility for the abuse.

Sexual assault occurs despite alcohol use, not because of it. When someone is extremely intoxicated, we call that person "impaired." "Impaired" means that you have more difficulty performing tasks. Therefore, if you are going to sexually assault someone when drunk, you have to try harder, focus your attention and be more determined than if you were sober. In effect, people who sexually assault when drunk, do so, not because they are intoxicated, but despite their intoxication. They have to overcome the impairment to commit the sexual assault.

Memory loss is not the same as lack of intent. If a perpetrator of sexual assault claims that he has no specific recollection of the assault, that does not mean that he had no intention of doing it at the time. All it means is that the perpetrator is currently either unable or unwilling to report his state of mind when the assaults occurred. For example, sometimes we hear perpetrators report on events that were acceptable (e.g., "I remember drinking and dancing") but not the events that could result in arrest and prosecution (e.g., "I don't recall fondling that person"). Or the perpetrator will not recall the offense but will be able to assert with confidence what his state of mind was at the time (e.g., "I had no desire for sexual gratification."). How can you NOT remember what you did, be absolutely certain what your motives were when you did it? How does alcohol know which memories to delete and which to keep intact?

Sexual assault and substance abuse are separate issues. If

someone violates sexual boundaries while drunk, that person has two problems that need to be addressed. Taking responsibility for alcohol consumption addresses only half of the problem. The perpetrator also needs to take responsibility for the sexual violence. On the most basic level, the perpetrator needs to learn that all sexual contact without permission is sexual violence.

To address this, good sex offender programs teach the principles of sexual consent. These principles are:

1. **Privilege.** Sex is never a right; it is always a privilege, honor, a gift that can either be granted or taken away from the person you wish to have contact with.
2. **Permission.** Since sexual contact is always a privilege, you always must seek permission before initiating contact. In addition, you need to be sober enough to know whether or not you have been given permission. Permission requires that the other person is capable, at the time, of giving permission (e.g., that person is old enough, sober enough, and not coerced by you to say "Yes.") If the other person is afraid to say "No" because you have a position of power or authority, you cannot know whether your potential sexual partner truly wishes to have contact with you (even if she does not actively resist your advances).
3. **Justification/Intent.** There is no excuse for engaging in sexual contact without consent. Sexually respectful people adopt the philosophy of "First Do No Harm." Those who do not respect sexual boundaries should not be allowed to explain or minimize their use of aggression as the result of alcohol or drug use, stress, deviant arousal patterns, lack of control or misunderstandings.
4. **Responsibility.** The only person who ever is responsible for a sexual assault is the perpetrator. The victim never is. As members of their community, we share responsibility for holding perpetrators accountable for their violence. How do we do this? By never blaming victims for the harm they suffered. By remembering that sexual violence is not a part of the disease of alcoholism." By never letting a perpetrator's sexual access and satisfaction become more important than the victim's sexual safety and autonomy. Keeping these principles in mind, we can make great strides in achieving sexual safety in our community.

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References and Readings

Additional Information

[Drinking Alcohol and Domestic Violence](#)

[Alcohol, Sex, and Violence](#)

[Alcohol Linked to Partner Violence?](#)

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Alcohol and sexual violence: key findings from the research

Andrea Finney

Sexual violence is a serious public health and criminal justice problem. Many men and women suffer sexual violence, a number of whom experience severe physical injuries or subsequently develop mental health problems. Alcohol is an important dimension in sexual violence – many perpetrators are drinking when they attack their victims or have alcohol abuse problems. Furthermore, many victims have alcohol 'problems'. This report presents the key findings from published UK and international research on the relationship between alcohol and sexual violence. As sexual violence is often committed in the context of intimate partner relationships, this report relates to Findings No. 215 (Finney, 2003a).

Key points

- The British Crime Survey estimates that one in ten women have been sexually victimised since age 16 (Myhill and Allen, 2002).
- Many perpetrators have drunk alcohol immediately prior to the incident and/or have drinking problems (Grubin and Gunn, 1990).
- Perpetrator alcohol consumption is sometimes associated with increased sexual violation and physical aggression (Brecklin and Ullman, 2002).
- The tendency for drinking to be a shared activity, the pharmacological effects of alcohol and beliefs and expectations about the effects of alcohol are important in explaining why sexual violence is frequently committed by or against people who have been drinking (Testa and Parks, 1996; Abbey et al., 2001).
- Many victims develop drinking problems as a response to victimisation and problematic drinking is an early predictor of post-traumatic stress disorder development among victims (Darves-Bornoz et al., 1998).

Sexual violence affects many people's lives profoundly. Among over 48,000 police recorded sexual offences during the 12 months to April 2003, there were more than 11,000 rapes and almost 24,000 indecent assaults against females and over 800 rapes and 4,000 indecent assaults against males (Sallsbury, 2003). However, official data considerably underestimate the true extent of sexual violence.

The British Crime Survey (BCS) estimates that less than one in five incidents of female sexual victimisation comes to police attention (Myhill and Allen, 2002). In addition, a study of female rapes coming to police attention in 1996 showed over one-quarter were not subsequently recorded (Harris and Grace, 1999).

The views expressed in these findings are those of the authors, not necessarily those of the Home Office (nor do they reflect Government policy)

The 1998 and 2000 sweeps of the BCS included self-completion questionnaires on sexual victimisation and provide the most recent and reliable figures on the nature and extent of adult sexual violence. (Note: published BCS findings relate to sexual victimisation among women only)

According to the BCS 2000 (Myhill and Allen, 2002), about one in every 100 women (aged 16-59) had experienced some form of sexual victimisation in the previous year, just under half of whom had experienced rape. This suggests there were an estimated 61,000 female victims of rape in England and Wales in the year preceding the 2000 BCS. One in ten women reported some form of sexual victimisation since the age of 16.

Some findings from the research on sexual violence and rape:

- Sexual violence is undoubtedly perpetrated by and against both men and women (Emmers-Sommer and Allen, 1999 - US).
- However, adult victims are predominantly female (Testa and Parks, 1996 - US).
- Women are most often sexually victimised by a man they know, typically a current or ex-partner (Myhill and Allen, 2002; Harris and Grace, 1999).
- In combined 1998 and 2000 BCS sweeps, 67% of rapes against women were committed by current or ex-partners or 'dates'. The assailant was a stranger in only 8% of rapes (Myhill and Allen, 2002).
- Attacks by partners and ex-partners are also the incidents most likely to result in victim injury (Myhill and Allen, 2002).

'Sexual violence' refers here to any form of physical sexual assault, completed and attempted rape. The focus is on sexual violence against people aged 16 years and over, female victimisation and male perpetration except where stated otherwise. Research from the US is often drawn on as relatively little alcohol-related sexual violence research has been undertaken in the UK. (Where examples of research are given, the country where the research is published is indicated unless the research is from the UK.)

Whilst findings from the US are largely transferable to the UK, beliefs and expectations are sensitive to cultural differences. Therefore, some generalisations should be made cautiously.

Key findings are presented here from national and international research on:

- prevalence of drinking by perpetrator and victim at the time of sexual violence
- the association of alcohol 'problems' with such violence

- the characteristics and consequences of alcohol-related sexual violence
- the role of alcohol in sexual violence.

Key research recommendations are also identified.

Prevalence of alcohol-related sexual violence

International research indicates a strong association between alcohol use - both 'drinking in the event' and long term drinking patterns - and sexual violence.

Drinking in the event

Drinking in the event refers to drinking at the time of the incident.

Research indicates a substantial proportion of sexual violence *perpetrators* are drinking at the time of the incident:

- In a UK study of 142 men imprisoned for rape, 58% reported drinking in the six hours prior to the rape. A further 12% had used a combination of alcohol and drugs (Grubin and Gunn, 1990).
- In a survey of 10,000 US State prisoners, 57% of those convicted of rape reported drinking at the time they committed the crime (Bureau of Justice Statistics, 1983; reported in Martin, 1992 - US).
- A national US victimisation survey found offenders had used alcohol and/or drugs in 61% of sexual violence incidents, most (76%) of whom had used alcohol alone (Brecklin and Ullman, 2001 - US).

(Note: in self-report studies there may be a tendency for perpetrators to over-report drinking in the event to minimise personal responsibility.)

Findings on the proportion of sexual violence *victims* who are 'drinking in the event' vary widely:

- A review of six North American arrestee studies, mostly using police report data, reported six to 36% of victims consumed alcohol prior to the event (Roizen, 1997 - US).
- In a review of seven US college student sexual victimisation surveys, victims were drinking in between 35% and 81% of incidents (Testa and Parks, 1996 - US).