

Marianne E Burke
8155 Country Woods Dr.
Anchorage, AK 99502
907-727-7043
Marianneb8@yahoo.com

April 8, 2018

Attention Alaska State Senators,

My name is Marianne E. Burke. I am visiting Juneau Monday and Tuesday this week, to help with the passing of HB 38, The Abigail Caudle Act, named after my dear daughter, because of her untimely death in the workplace.

I am a Republican, but my reason for being here affects and enlists both parties equally regarding a work place death.

In watching the discussion of the final passing of this Bill in The House, I have observed a few objections to the arguments that I would like to address here:

- 1) The cost of the Bill: As Rep Josephson stated, about 90% of the Bill is for *injured workers*. It increases the long overdue monetary disbursement for those deprived injured workers.

About *only* 10% of the Bill's cost is for those unfortunate individuals who die in the workplace, due to the employee's or employer's negligence, or it is just a plain work place accident.

In Abigail's case, it was the gross negligence of the employer and the 3rd parties which caused her accident. Worker's Compensation paid out nothing to our family for her life and there was absolutely No Consequence to the employer responsible for her death.

The employer's insurance company (through Workers' Compensation) paid \$10,000 for the funeral costs. The insurance company also paid the OSHA fine of a measly \$11,000 to the state for my daughter's death. *The employer paid nothing.*

This lack of any value or of any consequence by the governing body- Alaska Workers' Compensation- of Abigail's death, is what made us *sick* that human life is treated so casually, so carelessly. Her death was "swept under the rug" of laws that give no value whatsoever to single people, who have no dependents, and are killed in the workplace...

Please see the attached document from the Commissioner of Workers' Compensation, sent to me in 2013, revealing this no justice situation for deaths in the workplace...

In my situation, because Abigail's death was a workplace death, I could *not* sue in civil court due to SB 323 (2004), so Workers' Comp was my only legal remedy. Yet, Workers' Comp gave me no legal remedy for my daughter, who was a single person with no dependents and who was killed in the workplace. Is a single person's life in this land worth absolutely nothing??

It is hard to believe, but I sought out over 20 lawyers who specialized in personal injury or Workers' Compensation, to do a lawsuit and no one would represent me. They said that it was a work place death with no legal remedy, so I must seek justice through a Workers' Comp claim!

So I did! I sought justice through the Workers' Comp Board, then the Workers' Comp Appeal's Board. I was not allowed to go to the Superior Court where I might have received a trial by my peers (who, most likely would have overturned the Appeal's Board's decision to our favor), and then I went through the Alaska Supreme Court for two years. I went before the five Alaska Supreme Court Justices for Oral Argument on September 11, 2017.

The Justices seemed favorable toward my position, observing I believe, that I have not gotten any due process for Abigail's death. I am still waiting on their decision and of what the outcome will be for following the only legal avenue that I was allowed to pursue- through Workers' Compensation.

This is why we ask for Value of Life/a death benefit for Single people killed in the workplace in this Bill....this will create the first type of remuneration/small justice for these unfortunate victims' families.

Could you please reflect that if it was your son or daughter killed by the employer's gross negligence, with Nothing given for their life but the funeral expenses, that you wouldn't want some type of damage award and hopefully consequence to the employer to prevent additional deaths in the workplace?

- 2) From the discussion on the House Floor, I would like to say that *if* this Bill passes to where there is more of a payout to victim's families for deaths, and *if* it should raise the insurance premium a little, than it *should discourage* careless and reckless actions in the workplace!
 - A. ***Some kind of consequence means that employers will be more careful.***
Being more careful, leads to less accidents, meaning *less injury and death!*
Less injury and death, then, means *more* people healthy and alive, ***which means better productivity for businesses and the State, not less.***
 - B. ***Less Injury and deaths also means less cost to the economy overall and less cost to the State because there would be less Worker Compensation cases to pay for!***
Therefore, this Bill may be saving us money, rather than costing us money!

Above all the economic reasons, we must support the value of human lives and have consequences for those that don't value them. That value *must* be significant. Otherwise, human lives will be, as they currently are in the workplace, tossed aside like a dead cat.

I ask that you support HB 38 for the benefit of Alaskan injured workers going forward. Thank you for listening to my position Honorable Alaskan Senators.



Marianne Burke



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

**Department of Labor and
Workforce Development**

DIVISION OF WORKERS' COMPENSATION

P.O. Box 115512
Juneau, Alaska 99811-5512
Main: 907.465.2790
Fax: 907.465.2797

July 18, 2013

Marianne Burke
8155 Country Woods Drive
Anchorage, AK 99502

Dear Ms. Burke,
I am writing in response to your letter of July 5, 2013.

First, let me express my deepest sympathy for your loss. I've two sons, and I can only imagine how painful it must be to lose a child.

Your letter addresses issues relating to both Labor Standards and Safety and Workers' Compensation. I can only speak to the latter.

Your summary of Alaska's workers' compensation laws is accurate. The exclusive remedy provision under the Workers' Compensation Act bars civil action against an employer. Funeral benefits are capped at \$10,000, and there are no death benefits available for a single person with no dependents. In workers' compensation cases, plaintiff attorneys are only paid if they prevail at hearing, and given the limitations of law, this is likely why you were unable to find an attorney willing to take your case.

My purpose in writing is not to debate whether these provisions of law should be changed. Instead, I wanted to steer you in the right direction for addressing these issues. Workers' compensation laws are overseen at the state level. If you wish to see the laws changed to address your concerns, my advice is to contact your state legislators. Your state representative would be the person best suited to address your concerns.

Again, my condolences for your loss. Please feel free to contact me should you have additional questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael P. Monagle".

Michael P. Monagle,
Director