

Original sponsor: Rules Committee by request  
of the Legislative Council

Offered: 5/18/77  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 490

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making corrective amendments in the Alaska  
7 Statutes as recommended by the revisor of statutes."

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

9 \* Section 1. AS 05.15.030(a) is amended to read:

10 (a) At the time of filing application the applicant shall notify  
11 the city or borough nearest to the location of the proposed activity of  
12 the application. A [DURING THE 15-DAY PERIOD A] local government unit  
13 may protest the conduct of the activity in its jurisdiction by resolu-  
14 tion stating the reasons for the protest filed with the department.  
15 Protests are limited to the lack of qualifications prescribed by this  
16 chapter.

17 \* Sec. 2. AS 08.08.220 is repealed.

18 \* Sec. 3. AS 08.54.144(c) is amended to read:

19 (c) Master guides, registered guides, class-A assistant guides or  
20 assistant guides are exempted from the license requirements for trans-  
21 porters under this chapter but shall comply with the reporting provi-  
22 sions as prescribed in sec. 146 of this chapter [AS 02.05.170(f)].

23 \* Sec. 4. AS 08.80.295(a) is amended to read:

24 (a) Except as limited by (b) and (c) of this section, with the  
25 consent of the purchaser, the pharmacist may substitute a drug product  
26 with the same generic name in the same strength, quantity, dose and  
27 dosage form as the prescribed drug which is, in the pharmacist's pro-  
28 fessional opinion, therapeutically equivalent and meets the standards of  
29 (g) [(f)] of this section. Upon substitution the pharmacist shall noti-

1 fy the purchaser and the person who prescribed the drug of the substitu-  
2 tion and of the drug substituted.

3 \* Sec. 5. AS 10.20.710(a)(2) is repealed.

4 \* Sec. 6. AS 11.20.590 is amended by adding a new subsection to read:

5 (f) The state has a right of action for damages caused by a viola-  
6 tion of this section. Damages recovered under this section shall be  
7 deposited in the general fund.

8 \* Sec. 7. AS 11.40.210 is amended to read:

9 Sec. 11.40.210. PROSTITUTION DEFINED. Prostitution includes the  
10 giving or receiving of the body by a person [FEMALE] for sexual inter-  
11 course for hire.

12 \* Sec. 8. AS 13.26.030 is amended to read:

13 Sec. 13.26.030. STATUS OF GUARDIAN OF MINOR; GENERAL. A person  
14 becomes a guardian of a minor by acceptance of a testamentary appoint-  
15 ment or upon appointment by the court. The guardianship status con-  
16 tinues until terminated, without regard to the location from time to  
17 time of the guardian and minor ward. Guardianship powers may be dele-  
18 gated in accordance with sec. 20 of this chapter.

19 \* Sec. 9. AS 14.12.170 is amended to read:

20 Sec. 14.12.170. DISTRICTS. For purposes of secs. 150 - 180 of  
21 this chapter, regional educational attendance areas shall be considered  
22 districts.

23 \* Sec. 10. AS 14.40.695 is amended to read:

24 Sec. 14.40.695. ADMINISTRATION. The Alaska Commission on Post-  
25 secondary Education shall administer the state's participation in the  
26 Western Regional Higher Education Compact. The executive officer of  
27 the commission is the certifying officer for purposes of the state's  
28 participation in the compact in accordance with the policies of the  
29 Alaska WICHE Commission established under secs. 660 - 690 of this

1 chapter.

2 \* Sec. 11. AS 14.40.909(b)(4) is amended to read:

3 (4) administer the provisions of secs. 751 - 845 of this  
4 chapter [AS 14.40.751 - 14.40.806] (student financial aid program:  
5 scholarship loan, [AND] tuition grant and memorial scholarship loan  
6 programs [PROGRAM]), and serve as the student financial aid committee;

7 \* Sec. 12. AS 16.10.320 is amended to read:

8 Sec. 16.10.320. LIMITATIONS ON LOANS. A commercial fishing loan  
9 may not exceed \$100,000. A loan may not run longer than 15 years or  
10 bear interest exceeding seven per cent, and it shall be secured by a  
11 first lien and appropriate security agreements, except that a lien in  
12 favor of the state is not required for loans guaranteed fully by the  
13 federal government under the Federal Ship Financing Act of 1972 (46  
14 U.S.C. secs. 1271-1279b; 86 Stat. 909), as amended [, AND LOANS GRANTED  
15 UNDER SEC. 310(a)(1)(B) OF THIS CHAPTER MAY BE SECURED BY OTHER ACCEPT-  
16 ABLE COLLATERAL AS DETERMINED APPROPRIATE BY THE DEPARTMENT, INCLUDING  
17 BUT NOT LIMITED TO A PLEDGE OF ASSESSMENTS FROM FISHERMEN TO FINANCE THE  
18 ESTABLISHMENT OF HATCHERIES UNDER SECS. 400 - 470 OF THIS CHAPTER]. In  
19 the case of a security agreement given to secure a loan made under secs.  
20 300 - 370 of this chapter and covering a vessel documented under the  
21 laws of the United States and so long as the Ship Mortgage Act of 1920  
22 (46 U.S.C. secs. 911-984; 41 Stat. 1000), as amended, and the Shipping  
23 Act of 1916 (46 U.S.C. secs. 801-842; 39 Stat. 728), as amended, remain  
24 ambiguous with respect to whether or not a state or state agency quali-  
25 fies as a citizen of the United States for purposes of those Acts, the  
26 first lien requirement of this section may be satisfied by the recorda-  
27 tion and endorsement of a first preferred ship mortgage under the Ship  
28 Mortgage Act of 1920, and by perfection of a security interest under the  
29 Uniform Commercial Code -- Secured Transactions (AS 45.05.690 -

1 45.05.794), if the approval of the Secretary of Commerce is obtained  
2 under 46 U.S.C. sec. 839 for the transfer to the department of the  
3 interest in a vessel documented under the laws of the United States. In  
4 the case of a security agreement given to secure a loan made under secs.  
5 300 - 370 of this chapter and covering a vessel documented under the  
6 laws of the United States, the first lien requirement of this section  
7 may also be satisfied by use of a trust deed and bond issue under it, if  
8 the trustee is a citizen of the United States and obtains a first pre-  
9 ferred ship mortgage on the vessel under the Ship Mortgage Act of 1920,  
10 and the approval of the Secretary of Commerce is obtained under 46  
11 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the  
12 department if the trustee is not a trustee approved by the Secretary of  
13 Commerce under 46 U.S.C. secs. 808, 835 and 961. Loans [EXCEPT FOR  
14 LOANS GRANTED UNDER SEC. 310(a)(1)(B) OF THIS CHAPTER, LOANS] may not  
15 exceed 75 per cent of the appraised value of the collateral used to  
16 secure the loan.

17 \* Sec. 13. AS 15.25.050 is amended to read:

18 Sec. 15.25.050. REQUIREMENT OF FILING FEE. (a) Except as pro-  
19 vided in (b) of this section, at [AT] the time the declaration is filed,  
20 each candidate shall pay a filing fee to the lieutenant governor. The  
21 filing fee for candidates for office of governor, lieutenant governor,  
22 United States senator, and United States representative is \$100. The  
23 filing fee for candidates for office of state senator and state repre-  
24 sentative is \$30.

25 (b) In place of a filing fee, an indigent candidate may file a  
26 petition to be placed on the primary ballot for the party and office of  
27 his choice and signed by not less than the number of qualified voters  
28 prescribed by secs. 160 or 170 of this chapter, as appropriate.

29 \* Sec. 14. AS 15.60.010 is amended by adding a new paragraph to read:

1 (25) "indigent candidate" means a person who, at the time of  
2 filing for office, does not have sufficient assets, credit or other  
3 means to provide for payment of filing fees without depriving the can-  
4 didate or his dependents of food, clothing, or shelter and who has not  
5 disposed of any assets with the intent or for the purpose of filing as a  
6 candidate for the primary election without paying a filing fee.

7 \* Sec. 15. AS 18.50.280 is amended to read:

8 Sec. 18.50.280. COURT REPORTS OF DIVORCE, DISSOLUTION AND ANNUL-  
9 MENT. (a) For each dissolution, divorce and annulment of marriage  
10 granted by a court in the state the clerk of the court shall prepare and  
11 file a certificate of dissolution, divorce or annulment with the bureau,  
12 on forms prescribed and furnished by the bureau. The petitioner  
13 [PLAINTIFF] shall furnish the court with the information necessary to  
14 complete the certificate, and the furnishing of this information is  
15 prerequisite to the issuance of a decree.

16 (b) Before the 11th day of each month the clerk of the court shall  
17 forward to the bureau the certificate of each dissolution, divorce and  
18 annulment granted during the preceding calendar month and the related  
19 reports required by regulation issued under this chapter.

20 \* Sec. 16. AS 20.15.050 is amended to read:

21 Sec. 20.15.050. PERSONS AS TO WHOM CONSENT [AND NOTICE] NOT RE-  
22 QUIRED. (a) Consent to adoption is not required of

23 (1) a parent who has abandoned a child without affording  
24 means of identification, or who has abandoned a child as determined  
25 under AS 47.10.080(c)(3)(B);

26 (2) a parent of a child in the custody of another, if the  
27 parent for a period of at least one year has failed significantly  
28 without justifiable cause, including but not limited to indigency,

29 (A) to communicate meaningfully with the child, or

1 (B) to provide for the care and support of the child as  
2 required by law or judicial decree;

3 (3) the father of a minor if the father's consent is not  
4 required by sec. 40(a)(2) of this chapter;

5 (4) a parent who has relinquished his right to consent under  
6 sec. 180 of this chapter;

7 (5) a parent whose parental rights have been terminated by  
8 order of the court under sec. 180 of this chapter;

9 (6) a parent judicially declared incompetent or mentally de-  
10 fective if the court dispenses with the parent's consent;

11 (7) any parent of the person to be adopted, if the person is  
12 19 or more years of age, and the court dispenses with the consent of the  
13 parent;

14 (8) any guardian or custodian specified in sec. 40(a)(3) or  
15 (4) of this chapter who has failed to respond in writing to a request  
16 for consent for a period of 60 days or who, after examination of his  
17 written reasons for withholding consent, is found by the court to be  
18 withholding his consent unreasonably; or

19 (9) the spouse of the person to be adopted, if the require-  
20 ment of consent to the adoption is waived by the court by reason of pro-  
21 longed unexplained absence, unavailability, incapacity, or circumstances  
22 constituting an unreasonable withholding of consent.

23 [(b) EXCEPT AS PROVIDED IN SEC. 100 OF THIS CHAPTER, NOTICE OF A  
24 HEARING ON A PETITION FOR ADOPTION NEED NOT BE GIVEN TO A PERSON WHOSE  
25 CONSENT IS NOT REQUIRED OR TO A PERSON WHOSE CONSENT OR RELINQUISHMENT  
26 HAS BEEN FILED WITH THE PETITION.]

27 \* Sec. 17. AS 28.20.070(b) is amended to read:

28 (b) No policy or bond is effective under sec. 60 of this chapter  
29 with respect to a vehicle not registered in this state or a vehicle

1 which was registered in another jurisdiction [ELSEWHERE THAN IN THIS  
2 STATE] at the effective date of the policy or bond or the most recent  
3 renewal of it, unless the insurance [COMPANY] or surety company issuing  
4 the policy or bond is authorized to do business in this state, or if the  
5 company is not authorized to do business in this state, unless it exe-  
6 cutes a power of attorney authorizing the director of the division of  
7 insurance [COMMISSIONER OF COMMERCE] to accept service on its behalf of  
8 notice or process in an action upon the policy or bond arising out of  
9 the accident.

10 \* Sec. 18. AS 28.20.580 is amended to read:

11 Sec. 28.20.580. ASSIGNED RISK PLANS. After consultation with the  
12 insurance companies authorized to issue motor vehicle [AUTOMOBILE]  
13 liability policies in this state , the director of the division of in-  
14 urance [COMMISSIONER OF COMMERCE] shall approve a reasonable plan, fair  
15 to the insurers and equitable to their policyholders, for the apportion-  
16 ment among these companies of applicants for motor vehicle policies and  
17 other vehicle coverages [FOR MOTOR VEHICLE LIABILITY POLICIES] who are  
18 in good faith entitled to but are unable to procure policies through  
19 ordinary methods. When a plan is approved, all the insurance companies  
20 shall subscribe to it and participate in it. An applicant for an  
21 assigned risk policy, a person insured under an assigned risk plan, and  
22 an insurance company affected may appeal to the commissioner of commerce  
23 and economic development from a ruling or decision of the authority  
24 designated to operate the plan. Failure to adopt an assigned risk plan  
25 does not relieve any person from responsibility under this chapter.

26 \* Sec. 19. AS 28.35.020 is amended to read:

27 Sec. 28.35.020. CONVICTION IN LARCENY PROSECUTION. In a criminal  
28 prosecution for larceny of a vehicle, as the term "vehicle" is defined  
29 in sec. 260(7) [10] of this chapter, if the facts do not warrant a

1 conviction of the defendant for larceny, he may, nevertheless, be  
2 convicted of a violation of sec. 10 of this chapter if the facts warrant.

3 \* Sec. 20. AS 28.35.150 is repealed.

4 \* Sec. 21. AS 28.35.160 is repealed.

5 \* Sec. 22. AS 35.10.015(c) is amended to read:

6 (c) In this section, "public facilities" includes vessels owned by  
7 the state and operated by the division of marine transportation of the  
8 Department of Public Works as a part of the Alaska marine highway  
9 system. All ferries owned or operated by the state shall be equipped  
10 with elevators or other passenger lifting equipment, ramps, or other  
11 facilities and devices to ensure that these vessels are accessible to  
12 and usable by physically handicapped, aged or infirm passengers. In  
13 this section [SUBSECTION], "accessible to and usable by" means that a  
14 physically handicapped, aged or infirm passenger can board, disembark  
15 and move between decks and about the public areas aboard a state ferry  
16 with personal comfort and with safety to himself, other passengers and  
17 members of the crew.

18 \* Sec. 23. AS 38.05.066 is repealed.

19 \* Sec. 24. AS 38.05.067(c)(4) is amended to read:

20 (4) August 4, 1964, and November 7, 1975 [A DATE SIX MONTHS  
21 AFTER THE TERMINATION OF HOSTILITIES INVOLVING FORCES OF THE UNITED  
22 STATES IN VIET NAM].

23 \* Sec. 25. AS 39.35.340(d) is amended to read:

24 (d) The service credit granted under this section may not be  
25 counted as [COUNT] years of service for the purpose of satisfying eligi-  
26 bility for normal retirement or as eligibility for normal retirement  
27 before reaching normal retirement age under this chapter.

28 \* Sec. 26. AS 42.05.171 is amended to read:

29 Sec. 42.05.171. FORMAL HEARINGS. A formal hearing which the

1 commission has power to hold may be held by or before three [TWO] or  
2 more commissioners designated for the purpose by the commission. The  
3 testimony and evidence in a formal hearing may be taken by the commis-  
4 sioners to whom the hearing has been assigned. A commissioner who has  
5 not heard the testimony, including the argument, may not participate in  
6 making a decision of the commission. In determining the place of a  
7 hearing the commission shall give preference to holding the hearing at a  
8 place most convenient for those interested in the subject of the hearing.

9 \* Sec. 27. AS 44.47.150(g) is amended to read:

10 (g) For the purposes of this section [CHAPTER], the term munici-  
11 pality includes only first and second class cities incorporated under  
12 the laws of the state.

13 \* Sec. 28. AS 44.50.130(a) is amended to read:

14 (a) An application for a notary public commission shall include a  
15 statement under oath that the applicant is [A CITIZEN OF THE UNITED  
16 STATES AND] a resident of Alaska, as defined in sec. 20 of this chapter.

17 \* Sec. 29. AS 45.50.390 is amended to read:

18 Sec. 45.50.390. ACTS CONSTITUTING GENERAL APPEARANCE. If a person  
19 is proceeded against as provided in secs. 330 - 460 of this chapter, and  
20 is served with process according to law, or if a nonresident is served  
21 with process as provided in secs. 330 - 460 of this chapter, and if any  
22 of these persons, or aiders and abettors named as defendants appear in  
23 the proceeding by counsel or otherwise, or institute a special pro-  
24 ceeding attacking the proceedings, or make a motion in them, either  
25 special or general, or if any of them appear to obtain the judgment of  
26 the court solely upon the sufficiency of the service of the process upon  
27 them, or upon any phase of the injunction proceedings, the special  
28 proceeding or appearance, or motion, or appearance, as the case may be,  
29 is considered as a general appearance even though the process may not

1 have been sufficient, and the parties and defendants who appear in the  
2 action, for any reason or cause, are thereafter subject to the general  
3 orders and jurisdiction of the court for all purposes, and if any of the  
4 defendants or persons appear in a court proceeding instituted to effec-  
5 tuate secs. 330 - 460 of this chapter solely for the purpose of chal-  
6 lenging the validity of service of process upon them they are considered  
7 as having surrendered themselves and as having submitted to the general  
8 jurisdiction of the court. This section shall not be construed as  
9 denying, and no attempt shall be made at any time in any proceeding in  
10 connection with the enforcement of secs. 300 - 460 of this chapter to  
11 restrain or deny any of the defendants, resident or nonresident, copy-  
12 right holders or owners, or any person, or members of a defendant  
13 combination, entity, pool, or monopoly of [OR] their rights or property  
14 without full and complete due process of law.

15 \* Sec. 30. AS 44.80.070 is amended to read:

16 Sec. 44.80.070. SPECIAL USE OF HIGHWAYS AND OTHER AREAS. When the  
17 state, or a department or agency of the state, which has control over a  
18 highway or vehicular way or area, permits a portion of the highway or  
19 vehicular way or area, as defined under AS 28.35.260 [AS 28.35.265], to  
20 be used for a special purpose, the state is [SHALL] not [BE] subject to  
21 legal action or recovery of damages for injury arising out of, or in any  
22 manner connected with the special purpose use.

23 \* Sec. 31. AS 47.17.070(2) is amended to read:

24 (2) "child" means a person under the age of 18 [16];

25 \* Sec. 32. AS 47.23.090 is amended to read:

26 Sec. 47.23.090. REDUCING ARREARS TO JUDGMENT. The agency, on be-  
27 half of the person awarded support for the benefit of the child, may  
28 enforce support orders through execution after applying [. IF THE  
29 AGENCY APPLIES] to the court for an order reducing the outstanding

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

arrears to judgment in accordance with the Rules of Civil Procedure. At the hearing the obligor may present evidence

- (1) that the arrears are not owed;
- (2) that he or she is unable to pay; or
- (3) that the court should consider modifying custody or support if that is in the best interests of the child.

#