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"An Act relating to the custody and representation of a child in court proceedings; and adding to the court's authority under Rule 17(b), Rules of Civil Procedure, and Rules 11(a) and 15, Rules of Children's Procedure.

COMMITTEE REPORT

2/28/75

HOUSE

FINANCE

Mr. Speaker:

Date 3/20/75

The Committee on Judiciary has had HR 238

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR HR 238 AND THAT

CS FOR HR 238 DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

Jerry Gardiner _____
Robert Taylor _____
L.S. Bradley _____
Sam Carter _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Jerry Gardiner Chairman

Original sponsor: Bradner, Beirne,
Bowman, et al

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 238

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the custody and representation of
7 a child in court proceedings; and adding to the court's
8 authority under Rule 17(b), Rules of Civil Procedure,
9 and Rules 11(a) and 15, Rules of Children's Procedure."

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

11 * Section 1. AS 09.55.205 is amended to read:

12 Sec. 09.55.205. JUDGMENTS FOR CUSTODY. In an action for divorce
13 or for legal separation the court may, during the pendency of the
14 action, or at the final hearing or at any time thereafter during the
15 minority of any child of the marriage, make an order for the custody of
16 or visitation with the minor child which may seem necessary or proper
17 and may at any time modify or vacate the order. Appointment of any
18 guardian ad litem or attorney for the child shall be made under the
19 terms of AS 09.65.130. In awarding custody the court is to be guided
20 by the following considerations:

21 (1) by what appears to be for the best interests of the child
22 and if the child is of a sufficient age and intelligence to form a pre-
23 ference, the court may consider that preference in determining the
24 question;

25 (2) as between parents adversely claiming the custody neither
26 parent is entitled to it as of right.

27 * Sec. 2. AS 09.65 is amended by adding a new section to read:

28 Sec. 09.65.130. REPRESENTATION OF CHILD. (a) The court may,
29 upon the motion of either party or upon its own motion, appoint an

1 attorney or guardian ad litem to represent the interests of a minor or
2 dependent child with respect to his custody, support, and visitation or
3 in any other legal proceeding involving his welfare. When custody,
4 support, or visitation are at issue in a divorce, it is the responsi-
5 bility of the parties or their counsel to notify the court that those
6 matters are at issue. Upon notification, the court shall determine
7 whether the child should have legal assistance or other services and
8 shall make a finding on the record before trial. The court shall enter
9 an order for costs, fees, and disbursements in favor of the child's
10 attorney or guardian ad litem and may further order that other services
11 be provided for the protection of the child.

12 (b) If custody, support, or visitation is an issue, the order
13 for costs, fees, and disbursements shall be made against either or both
14 parents, except that, if the responsible party is indigent, the costs,
15 fees, and disbursements shall be borne by the state. If either or both
16 parents are only temporarily without funds, as determined by the court,
17 the court may advance payment for legal representation or other services
18 rendered to the child. ^{removed} The attorney general is responsible for en-
19 forcing collections owed the court, and repayment shall be made directly
20 to the court under the provisions of rules governing the administration
21 of the courts. The court shall, if possible, avoid assigning costs to
22 only one party by ordering that costs of the child's legal representa-
23 tion or other services be paid from proceeds derived from a sale of
24 property belonging to both parties, before a division of property is
25 made. No repayment may be required for those who are receiving legal
26 services for the indigent.

27 * Sec. 3. AS 18.85.100(b) is amended to read:

28 (b) The attorney services and facilities and the court costs
29 shall be provided at public expense to the extent that the person, at

1 the time the court determines indigency, is unable to provide for pay-
2 ment without undue hardship. Appointment of any guardian ad litem or
3 attorney shall be made under the terms of AS 09.65.130, to the extent
4 that that section is not inconsistent with the requirements of this
5 chapter.

6 * Sec. 4. AS 20.15.100 is amended by adding a new subsection to read:

7 (j) Appointment of any guardian ad litem or attorney for a person
8 to be adopted who is a minor shall be made under the terms of AS 09.65.-
9 130.

10 * Sec. 5. AS 47.10.050 is amended to read:

11 Sec. 47.10.050. APPOINTMENT OF GUARDIAN AD LITEM OR ATTORNEY.
12 Whenever in the course of proceedings instituted under this chapter
13 it appears to the court that the welfare of a minor will be promoted
14 by the appointment of a guardian ad litem or attorney, the court may
15 make the appointment. Appointment of any guardian ad litem or attorney
16 shall be made under the terms of AS 09.65.130.

17 * Sec. 6. Section 1 of this Act has the effect of adding to the discre-
18 tionary authority of the court to appoint a guardian ad litem or attorney
19 to represent the interests of a minor child in legal proceedings under
20 Rule 17(b), Alaska Rules of Civil Procedure, and Rules 11(a) and 15, Alaska
21 Rules of Children's Procedure, by allowing the court to appoint an attorney
22 to represent the interests of a child in a legal proceeding either on the
23 court's own motion or on the motion of either party, and by providing for
24 advances for legal representation and payment of costs from the sale of joint
25 property before property settlement.

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House Judiciary Committee
March 6, 1975

The meeting was called to order at 11:30 a.m. by Chairman Gardiner. All members were present except Reps. Brown and Parr.

CS CS SB 28 Marriage

The committee reviewed the proposed Judiciary CS. Mr. Fink moved and asked unanimous consent that H CS for CS for SB 28 pass out of committee with a do pass recommendation. There being no objections, it was so ordered.

HB 237/238 Divorce

Speaker Bradner, sponsor of the legislation testified that HB 237 was intended to provide for an informal forum outside the Rules of Court Procedure. He suggested the following amendments:

p 1, line 14 - within 30 days after
p 1, line 23 - delete "himself"
p 2 - delete section (e)
add a section stating that counsel may be present

He explained the purposes of HB 238 as follows: if custody is at issue, the court will be notified and will consider the possibility of appointing a lawyer for the child. It specifies the method of payment for the lawyer. Mr. Fink raised the question of why legal services would have a special exception.

The meeting adjourned at 12:10 p.m. and was reconvened at 1:20 p.m. All members were present except Mr. Parr and Mr. Brown.

Art Snowden testified that the Court system had no objections to the bills.

Don Clocksin of Alaska Legal Services stated that they supported HB 237 with the following amendments:

- p 1, line 14 - within 30 days after all necessary papers (cross complaints) had been filed
- p 1, line 20 - may, at any time,
- p 1, line 23 - delete "himself"
- p 2 - delete section (e)

Mr. Fink stated that if (e) were deleted, "himself" could be retained for those circumstances where only the judge would be qualified to do the mediation. There was no objection from anyone present.

Mr. Clocksin continued that he thought that the right to counsel in attendance at mediation was implied, but if there was a question to add language to that effect. "Parties to the action and their counsel, if they choose . . ."

House Judiciary Committee
March 6, 1975
page 2

Mr. Clockson stated that they favor HB 238.
Mr. Fink again raised the issue of why legal services was exempted. Possible language suggested instead of "legal services" in lines 8 and 18, page 2 - "except as prohibited by federal requirement."

Alan Compton testified that the guardian ad litem in HB 238 should be an attorney. He suggested that the language on page 2, lines 2 and 3 be changed from "or in any other legal proceeding involving his welfare" to "or those matters directly affecting the child's welfare."

Mr. Fink asked if this bill would make more juvenile hearings formal. The reply from Compton and Clocksin was no even though it would probably result in more juveniles being represented by counsel.

Mr. Fink suggested that "shall" in p 1, line 28 be changed to "may"

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House Judiciary Committee
March 20, 1975
page 2

HB 238 Child's representation in divorce

Mr. Brown moved on page 2, line 22: correct the spelling of administration. The amendment passed.

Mr. Brown moved on page 1, line 17; page 3, line 2, 7, 15 change a guardian to any guardian. The amendment passed.

Mr. Parr moved that on page 1, line 28: delete all and insert: "Sec. 09.65.130. REPRESENTATION OF CHILD. (a) The court may" The amendment passed.

Mr. Brown moved on page 2, line 18: put a period after child, delete however, and change no to No. Mr. Cotton objected. Mr. Gardiner moved that the sentence beginning No repayment on line 18 should be moved to line 26. The amendment was adopted.

CS HB 238 was moved out of committee with a do pass.

The meeting was adjourned at 9 p.m.

March 7, 1975

Francis Williamson
Commissioner
Department of Health and Social Services
Pouch H
Juneau, Ak. 99811

Dear Commissioner Williamson:

The House Judiciary Committee is now considering HB 237, concerning mandatory mediation in divorce cases, and HB 238, concerning representation for children. On this same subject, I would appreciate receiving information on the following:

1. Of the total number of divorces granted in the last five years involving children (I have these figures broken down by year), how many were filed for by men as compared to women?
2. Of the total that involved children, how many child custody cases were disputed?
3. Of the number of disputed cases, how many men won custody as compared to women?

If your department does not have these figures, do you know who does or why they are not kept?

Thank you very much for your assistance.

Sincerely,

Terry Gardiner
Representative

Alaska Divorces Showing Number of Minor Children Involved 1970 - 1974

<u>Number of Children Involved</u>	<u>1974</u>	<u>1973</u>	<u>1972</u>	<u>1971</u>	<u>1970</u>
Total Divorces	2,224	2,051	2,139	1,746	1,694
0	1,004	877	883	718	670
1	501	473	511	433	376
2	402	399	403	318	309
3	169	174	168	166	137
4	74	75	91	48	94
5	38	22	25	27	44
6	15	7	24	14	11
7	5	7	10	8	7
8	2	2	2	1	5
9+	3	3	1	0	2
NS	11	12	21	13	39

Divorces involving children
1209

1162

1235

1015

985

?

~~4448~~
4448

2039

4008

4056

3479

3349

March 7, 1975

Rudy Johnson
3710 Alaska Avenue
Ketchikan, Ak. 99901

Dear Rudy,

Thank you for your letter of March 2 on our domestic relations statutes. Your recommendations and those of Judge Schultz seem to make a lot of sense to me as a layman. I would like an opportunity to talk these over with some of the people involved in the judicial and legal systems. As you know, Representative Mike Bradner has put a lot of time and effort into the entire area of divorce and child custody.

Representative Bradner has introduced HB 237 and HB 238 which our House Judiciary Committee is presently working on. While these bills are not direct answers to the specific problems that you are concerned about, I do think that they have a general effect on these problem areas. HB 237, which provides for a mediation procedure between husband and wife, could possibly alleviate some of the tough battles that go on in divorce proceedings over child custody. HB 238, which provides for childrens' attorneys, would help the problem you bring up of taking the childrens' desires and interests into consideration. Too many times the children become the objects of the parents conflicts in a divorce proceeding. I would be interested in your comments on these bills. I have requested the information that you originally requested from the Department of Health and Social Services. I will send you this information as soon as I receive it. I would be interested in any further recommendations or research that you come up.

Sincerely,

Terry Gardiner
Representative

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

March 2, 1975

Mr. Terry Gardner
State Representative
Pouch V
Juneau, Alaska 99801

Dear Terry:

I met with Superior Court Judge Thomas Schultz Tuesday, February 18, 1975, to discuss our Domestic Relations Statutes and get his thoughts on the subject. I believe the results of the meeting could be beneficial to future legislation. I would like to make his thoughts known to you and add a few of my own.

I explained to Judge Schultz that three local attorneys have told me it is literally impossible for a man to obtain child custody in this state, unless he can prove his wife to be unfit. I told him the attorneys all said the Courts refer to the Tender Years Doctrine (King vs. King, Superior Court, 1970) in deterring custody. (That ruling basically says that if everything is equal as far as the parents fitness is concerned, the children are better off with the mother.)

The Court often calls upon the Department of Health and Welfare to make investigations and recommendations in child custody suits. Marian Swain is in charge of this in Ketchikan. I met with her December 4, 1974, to discuss this issue. Before our meeting had ended she agreed that they begin their investigations with the biased attitudes of the Tender Years Doctrine and make their final recommendations accordingly. All this was also discussed with Judge Schultz.

Judge Schultz said he certainly was not aware of the Welfare Department's attitude concerning this. He also said that as far as he is concerned the Tender Years Doctrine is no longer legitimate because of many Court decisions made since that ruling. He did say, though, that it is quite possible that the doctrine still sways other judges decisions. He made mention of the fact that we all have certain prejudice ideas that unintentionally sway our decisions at times.

He agreed that our present statutes give the Court almost unlimited authority in divorce proceedings and agreed that this authority could very easily be abused by unintentional, preconceived thoughts. As a whole, he thought our domestic relations statutes were pretty good compared to other states. When I asked if he thought any problems that may exist now, concerning divorce proceedings, could be alleviated through legislation, he had these suggestions to make:

1. Set specific guidelines that the Court must follow in determining custody of minor children. These guidelines would include taking the children's desires into consideration. He felt by doing this we would see more continuity in different Courts decisions.
2. Set specific guidelines for anyone doing an investigation to determine who the children's best interest would be with. (My thought: as it is now, much is left up to the investigator's discretion and too many of these people just are not qualified to make the decisions they are making. Guidelines they would have to follow, should pretty much take care of this problem.)
3. Investigator's reports should be made available to spouses involved.
4. The Judge should have to give the spouses involved, the reasons for his or her decision based on the guidelines that the legislature would provide. (My thought: I believe these two suggestions are excellent and believe it would provide everyone involved with a fair and impartial decision. It would also put the responsibility on the legislatures rather than individual judges. It would seem as if this is where the responsibility belongs since our legislatures are expressing the peoples wishes as a whole, in their legislation.
5. No fault divorce that could be obtained by simply filling out the required form, which would be provided, if there were no children involved. Judge Schultz said he felt this would save a lot of the Court's valuable time, not to mention the money it would save those people involved. Thus, effectively taking the profit out of divorce for attorneys.

I was very impressed with Judge Schultz and believe that anyone coming before his Court, would surely be treated equally and fairly. After thinking about the things he said and re-examining our statutes, I am inclined to agree with him that we have a pretty good set of laws concerning our Domestic Relations. I think the problems are coming more from the individual judges, investigators, and attorneys than from the statutes themselves. Rather than completely overhauling these statutes, I would like to offer these thoughts:

1. Write Judge Schultz's suggestions on guidelines into our statutes- which would include guidelines for awarding alimony and child support payments.
2. Adopt a no fault clause.
3. Change any and all wording that makes any reference to sex. Where husband or wife is used, change to spouse. This would effectively give both spouses equal responsibilities, privileges and risk in marriage and divorce.

4. Specific guidelines for any Court orders pending a divorce proceeding. For example, removing either spouse from home, temporary restraining orders, and temporary child support and custody.

I have written the rest of the Superior Court Judges in the state, hoping to get some more input and facts.

I believe with what Judge Schultz has told me, it is imperative that a very close look be taken at the statistics I have requested from Juneau.

I have requested:

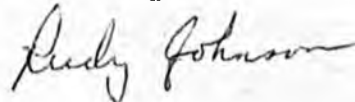
1. The number of divorces granted in the last five years involving children.
2. Of that number, how many were filed for by the men as compared to women?
3. Of the total that involved children, how many child custody cases were disputed?
4. Of that number, how many men won custody as compared to women?

I believe these figures could reveal the possibility of certain biased and unfair practices in our judicial system. Among other things I am wondering if men are getting the advice and representation they are paying for from their attorneys. I can not see what an attorney would have to gain by such a practice, but it certainly would be a very serious thing, and should be looked into if the possibility is supported by the state's cases already processed.

I would appreciate knowing where this possible legislation stands at present. I also would very much appreciate seeing any proposals that may be introduced.

I hope this material may be of some use to you.

Sincerely,



Rudy Johnson

RJ:sm

P.S. Judge Schultz said to say hello.

cc: Mr. Mike Bradner
State Representative
Pouch V
Juneau, Alaska, 99801

3720
W. Johnson

Rudy Johnson
3710 Alaska Ave.
KTU

- ① No of divorces filed Sep.
 - ② Who filed them
 - ③ contested child custody & decisions
-

Man sacrifices
by having women at home
because of financial loss
& penalized in divorce
because then man is
not good housekeeper
but woman is

Men don't file because
lawyers ~~can't~~ say
they can't win
custody

based on old laws
New York 172 yrs.

Court forced to make
decision on fact of
what parents are
not their sex

What percentages
of cases are referred
to family & children
services

^N ^A ^A
Mandatory Marriage
Counselors

8 states requires
guarantee quality of
counselors

Attorneys for Kids
would help pick
parent best able to
raise kids

loop into statistically

Resolution to courts
most effective
initially?

Rudy Johnson
3710 Alaska Ave.
Ketchikan, Alaska
99901
January 11, 1975

Terry Gardiner
Bob Ziegler
Oral Freeman

Dear Mr. Gardiner, Mr. Ziegler, and Mr. Freeman,

In the last thirty years the number of divorces involving children has increased astronomically. Since 1962 the divorce rate in this country has risen 80%. In 1953 45.5% of divorces involved children, and by 1974 this rate increased to 68%. One of the few things that psychiatrists and sociologists seem to agree upon is that a broken home greatly affects the chances of a child being successful and being able to cope with adult life in later years. This theory is heavily supported by many different studies made in the last few decades. One such study concluded that a child affected by a broken home has about the same frequency of mental health problems as children that have lost one parent through death. The number of divorces for 1972 was about 900,000 and affected over 1,000,000 children nationally. These figures are not just numbers but they represent people who may not ever really have a chance to be successful because of an environment forced upon them by a selfish parent or parents.

The reasons for the increase in divorces vary from theory to theory. It seems that one of the main reasons lie in the social acceptance of divorce today and the permissive attitudes reflected in most state laws concerning divorce, Alaska being one of the most permissive. (Please refer to enclosed articles.) As an example to this are the figures mentioned above on the increase of divorces over the last 21 years. Unfortunately, children are always the victims of a divorce and that is why something needs to be done about it. No child ever asked to be born and they deserve more than they are getting out of our courts today.

Under the present Alaska statutes a person can get a divorce for virtually any reason. If all else fails, they can claim incompatibility. There are defenses for any grounds a person may claim, but several local attorneys that are very experienced in divorce cases have told me that it is literally impossible to stop a divorce in this state if one spouse or the other desires it.

I feel very certain that no state legislature could pass laws that would force parents to stay together and make their marriages work. However, the Alaska State Legislature could pass legislation that would make our laws much more just and fair and that would encourage marriage rather than divorce, as it presently does.

The most unjust aspect of our present laws on divorce and child custody are that they greatly discriminate against men and actually encourage women to seek a divorce. Most people do not realize how severe this problem is in our state. For instance, I found that under the present state statutes a man could be obligated to pay for the woman's legal fees, no matter who the plaintiff. It does not stop here, but he could also be ordered to pay his wife's expenses to his location so that she can prosecute him. A man can be extradited for desertion or nonsupport, but there is absolutely no mention of a wife deserting a family in our statutes. A woman is almost certain of obtaining custody of the minor children in a divorce action in this state no matter who is at fault in the dissolving of the marriage. A woman can be sure of obtaining 25% of her husband's lifetime earnings whether or not she remarries. It makes no difference if she has been a dedicated wife or not and that she may want a divorce simply out of boredom. In conclusion, a woman in the state of Alaska has everything to gain and nothing to lose, except a husband, by divorce.

Besides the things mentioned, a woman is certain to end up with at least half and probably more of the husband's estate although she may be the only one wanting to terminate the marriage and may be guilty of the things that make reconciliation impossible.

Although the main concern of the courts is theoretically the children's welfare, we have the Tender Years Doctrine in Alaska (King vs King Sup CT Op No. 650 1970) that often sways the courts decisions, as can be seen by the fact that in the majority of divorce cases in this state the children are awarded to the mother. The effect of these attitudes seem to be reflected by the fact that women filing divorce actions against their husbands exceeds men doing the same thing by a great extent. Again women have nothing to lose by their divorce action. I am sure many women would work much harder at making their marriage successful if they knew that they stood a chance of losing their children as well as their financial security in a divorce action. Theoretically, the present laws were passed as they are so as to insure the children of these homes would be properly taken care of. Instead it encourages divorce action when all that may be needed to make the marriage work would be a little more work and compromise on both spouses' parts. Children need a family life with both a mother and father and all the financial security in the world will not replace that. Some dedicated fathers realize this but are literally blackmailed by their wives because these women know how important a man's children are to him and that if he does not adhere to her wishes she can take everything he has, including his children. This is a very real problem in our state and any state that has biased divorce laws. It seems to be that the legislatures that caused these laws to be passed have defeated their original purpose as the results of their legislation testify.

A civil contract with a bank or company of one kind or another cannot be broken just because one party has had second thoughts and now desires to be free from it. If a party should default from a contract he or she is ordered by the courts to make restitution. This is not so with a divorce, but what could be more important than the family unit and the children within that unit?

Is a used car more important? I think not, but a used car salesman is much better off in our courts, trying to collect from a defaulting customer than a man is in trying to save his children from the heart-aches of a broken home and the loss of a father in a divorce action.

Many people realize how important an issue this is and how unjust these laws are. They have gone to their state legislatures and helped to get legislation passed that has greatly affected these laws. One very important thing that has been happening concerning divorce is that now nine states require mandatory divorce counseling aimed at reconciliation before they will grant a divorce. There are many organizations such as the Committee for Fair Divorce and Alimony Laws, New York; American Divorce Association for Men, Chicago; and the U.S. Divorce Reform, California; that are causing much concern among the public for these things and are responsible for a lot of needed legislation to rectify some very unjust laws. I believe that laws that would put the responsibility of divorce equally upon both spouses would certainly deter many broken homes. Many people feel that their next marriage will be what they want but studies indicate that the second marriage usually is not as successful as the first.

There are many men that are very dedicated husbands and fathers but after dedicating years of their lives to their families they can have it all taken away by a bored wife in thirty days.

I would like very much to see legislation passed that would rectify this situation and give every man in the state of Alaska the legal right to raise their children in the family unit they worked so hard to provide if they are found to be responsible. This should also apply to women. The spouse that shows irresponsibility by terminating the marriage in one way or another without just cause, is the one who should stand to lose the most, including their God given right to raise their children. I am no legal authority, but it seems that a lot of our present state statutes are unconstitutional, concerning divorce and child custody, with the new constitutional amendment on equal rights.

My main concern is the children involved in so many divorces and I believe proper legislation would certainly deter many would be divorces. We all have a moral responsibility to our children to offer them the most meaningful life possible. To do this I believe we will have to get rid of the present inequities in our courts and state statutes concerning divorce, child custody and alimony.

If any of you would be interested in pursuing this matter I would be more than willing to offer any assistance I could. I am sure there is a lot of ground work to be done to create this kind of legislation and I would be most willing to assist you.

References for this material include:

- Alaska Statutes 09.55.090-- 09.55.230 and 25.05.010 to 25.25.270
- American Law Reports
- Alaska Law Journal
- Alaska Reporter
- Marriage and Family Interaction Bell 1967
- Contemporary Social Problems 1972
- Let's Stop Destroying Our Children 1974

Respectfully Yours,

Ludy Johnson

Unjust And Biased Alaska Statutes

Sec. 09:55:150 Use of husbands residence where wife is plaintiff:

If husband meets residency requirements and wife doesn't she can use his residency to file for a divorce, but it doesn't give the man the same right.

Sec. 09:55:170 Separate residence during action:

Wife may acquire separate residence during action without consent of husband and without being charged with misconduct, but this doesn't apply to men as well.

Sec. 09:55:200 Temporary alimony and wife's legal fees:

The courts may order a husband to provide a amount of money as may be necessary to prosecute him. This goes so far that the husband can be ordered to pay for a appeal the wife may make. (Leak vs Leak 156 f. 474) Even though the courts have ruled a wife also can be ordered to pay alimony (Olsen vs Olsen 5 Alaska 459) most court rulings on alimony specify men such as: Goggans vs Goggans 15 Alaska 451 237F 2d 186 Also in American Law Reports 2nd, page 309 it is stated, "If it is proved a wife is guilty of marital misconduct the court can deny her temporary alimony and attorneys fees but as a practical matter the husband does not prevail very frequently."

Tender Years Doctrine: King vs King Sup CT. Op No. 650 1970

Although this is not a law but a court ruling it has greatly affected many court decisions as can be seen by examining the records for the last five years. This decision says that young children are better off with their mothers and should be placed there whenever possible. This certainly does not take other statutes into consideration and makes child custody almost impossible for a man. The following laws seem to contradict this decision but the courts go right on awarding children to the mothers as a matter of fact.

09.55.205: Neither parent is entitled to custody as a right. Superior Court Ruling Op No. 847 1972 Custody has to be made without regard to sex. Also new constitutional amendment on equal rights.

Sec 09.55.201 Paragraph 1 says child custody should be given to the party not at fault and the guilty party should help support the children.

Suggestion: It should be absolutely mandatory that the children go with the innocent party if they want them, and if both parents are equally fit. It is a parents God given responsibility and right to raise their children and not even the courts have a right to take that away so long as they are doing their job in a responsible way. After all if a man was not being sued for divorce the court would not be involved and he would be allowed to raise his children. Here is a perfect example where a bored wife has everything to gain and nothing to lose. Sec. 25.20.030 says it is the duty of children to care for parents when they become unable to do so. The courts have ruled this is a moral issue. How much more so in a child custody situation?