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COMMITTEE REPORT
SENATE

1/31/79

FURTHER: Judiciary

Date: _____

Mr. President: HEALTH, EDUCATION &
The Committee on SOCIAL SERVICES has had SB 88
relating to truant children

under consideration and (a majority of the committee) (the committee)
reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s) same title
- replace with CS for _____ new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Handwritten signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten signature]

Voluntary No Rec.

[Handwritten signature]

CHAIRMAN

DO 1/158

AB88 "An Act relating to ^{SAESS 79-80} ~~the amount of~~
By: Meland

Introduced 1-31-79

Logged 1-31-79

Referred to Judiciary

Comm. meeting 3-14-79 - Passed with letter of intent.

" Action taken & Senate Secy. 3-15-79 9:4 AM

F/W & Position paper
Sen Meland's office notified
HSS - Notified

3/14/79

SB 88

Sen. Meland. This bill has been before this committee before. It saw action a year ago, but after going through both this committee and the Judiciary Committee it somehow got lost before the 162 days was up.

SB 88 is a bill put in by request from a principal from the Sitka Junior High by the name of Duke Duncing. I think possibly it might be just as well to give the committee a little background from a letter that I did receive which caused me to go ahead and have the bill written up. Mr. Duncing sees the problem this way. He says, 'I've tried to solve the truancy problem by following the procedures outlined under the compulsory attendance law (AS 14.30.030). At that time, 1970, it took most of the year to bring the problem to the attention of the courts and by then the school year was nearly over. Meanwhile students were truant from school for two or three weeks at a time and I could find no way to get them back to school. Currently both the school attorney, Mr. Weddle of Juneau and Assistant District Attorney, Mr. Jim Hanley advised that it is virtually impossible to use the compulsory attendance law as you do have to prove wilful intent on the part of the parent. He goes further in saying while looking for a more expedient solution to the problem after my experience with the compulsory attendance law, I talked to the Honorable Judge Carlson and his solution to the problem was filing a petition under the juvenile statutes, which stated a minor came under the pervue of the court when he is habitually truant from school or home or habitually so conducts himself as to injure or endanger the morals or health of himself or others. Mr. Dunsing said this worked very well as long as Judge Carlson sat on the bench in Sitka, but there was some reluctance on the part of subsequent Superior Court judges to follow through, but it still always was effective when they did. The new statutes took out the explicit wording in regard to truance and so consequently it is much more vague. The result it where that we are back to where we were several years ago with still no effective way to get truants back in school.

It has been my experience the last two or three years that when students are habitually truant from school they end up getting in more trouble than they would have been if they were in school.'

That is briefly what he has in mind. Last year when this bill came out of both this committee and the Judiciary committee there was no fiscal note on it. I am very suprised to hear that this little four line change now, comes out of Health and Social Services and says that to be effective the fiscal note is going to be \$1,946,000 up to \$2,334,000 by 1984. H&SS asking for 51 social workers to put this into effect. I'll be most anxious to listen to testimony.

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Elisabeth Murktarian. At the present time the statute does not cover habitual truancy and the statute primarily addresses child protection. The department doesn't feel that truancy alone is reason enough to intervene in a family and initiate court action with regard to child protection.

Sen. Hackney. Is that why the fiscal note came out so high?

Elisabeth Murktarian. In terms of the fiscal note, it was felt it would be necessary to have additional staff to perform these functions and would require having a social worker in each of the 5 highschools in Anchorage and one for each school district.

It would be a social worker III. I'm not sure what the salary is, I think it is a range 16.

Sen. Ferguson. What you are attempting to do here is have a social worker in every school.

Elisabeth Murktarian. Every school district, except in Anchorage where we'd have one associated with the five high schools in order to address the specific problems of truancy.

Sen. Fahrenkamp. I wonder if there is why there is one needed for each high school in Anchorage, why there isn't one needed for each of the high schools in Fairbanks?

E. Murktarian. I'm not sure why that was done.

Sen. Fahrenkamp. Mr. Chairman, do you know the salary of a range 16?

John Pugh. It's around \$2,000 a month approximately.

Sen. Sturgulewski. Mr. Chairman, if we had this kind of thing on the books previously, I have a good idea that it was there for not a question of somebody playing the truant officer daily as in olden days, but that it was an additional protection to be utilized in those cases when it was particularly needed. Is that true? How did we handle it before? Isn't there a way of having something like this on the books that gives the kind of a tool in those particular cases when it is needed. I find it a little bit offensive to think that there is only one way to apply a law. We just don't enforce laws that we. You just don't go out and create a whole world because you've got maybe 10, 15, 20 or 30 or whatever the number of kids are across the state. Why do we have to, in order to get to what must be a problem, have to do this great big glorious that is going to cost us a couple of million dollars? Isn't there an inbetween way to get it on the books and to add that tool to whoever has other charges and do something with it?

E. Murktarian. I think that if truancy is associated with other problems in the home such as neglect or abuse or some of the other things which are covered in AS 47.10.010 that the department can intervene under the present statute.

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Sen. Sturgulewski. We have testimony that's not true, then what's happening in the delivery system somewhere that says that it has to be listed because we do have areas where we are habitually absent as a condition, refusing to accept available care as a condition, and I can't see what the big deal is just adding one more thing that would give evidence.

Sen. Hackney. That escapes me too. We don't put a social worker in every school in the state to deal with the other areas that come under putting kids under the jurisdiction of Health and Social Services.

E. Murktarian. The other areas which are covered in the statute have to do with problems in the home and in some instances petitions are filed and children may be placed in foster care and is working with the family. In terms of school attendance alone, the role I think of the social worker would be somewhat different in terms of what a social worker could do to insure school attendance.

Sen. Fahrenkamp. What's wrong with truant officers?

Sen. Sturgulewski. Could we take a look at the statute that is being proposed. Are those things mutually exclusive or are those things added together to say, there is a problem, we are going to go to court and we are going to have things done.

Sen. Hackney. This is the section of law that deals specifically with kids who get . . .

Sen. Sturgulewski. It just seems to me that what we are doing is adding another category of decision making, we are not creating a whole new field, I mean these things work together.

E. Murktarian. The way the statute had been changed in 1977 primarily the categories under which proceedings can be made for a child in need of aid have to do primarily with child protection situations, where a child needs somekind of protection.

Sen. Sturgulewski. Is there another area in this statute where it might more appropriately be located. When we are talking about . . . The thing to do is to get a child somehow cared for to where they can get help. Would you find that the fact that they're habitually truant from school, they've got a problem. Is that a different than the child who is habitually absent from his home? Might not your solution be the same thing? You've got a kid in trouble. He needs to be identified. I'm just having some real problems seeing why we need a different system for this child who has obviously got a problem if he is not getting to school.

E. Murktarian. Under the exiting statute if there are other problems in his nonattendance from school, the child can be served.

Sen. Hackney. Why couldn't the child be served in the normal social worker situation instead of putting a social worker in every school? Are you saying caseloads are to the point where . . .

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E. Murktarian. Caseloads are high, yes. And this would be an additional responsibility related specifically to schools and ensuring school attendance.

Sen. Fahrenkamp. If you took 51 social workers and you paid them \$2,000 a month for a nine month period, and added to it the \$25,500 that they need for equipment, I don't know what equipment they need, and the \$15,500 for commodities, whatever that is, and the \$6,100 for contractual services, and the \$4,600 for travel, I can't come anywhere near, I am just about a million dolla s short of their figures.

Sen. Meland. I am just wondering whether the young lady can say, I'm most anxious to know when those words were stricken, did the state all of a sudden start saving \$2 million?

Sen. Sturgulewski. Could we have Sen. Meland once again, why do we need this?

Sen. Meland. Well, I've tried to answer. . . The problems are listed in Mr. Duncing's letter. And he goes on to say 'the most outstanding example this year is a girl, age 14, who had not been in school since the 3rd or 4th day of school' . . .

Sen. Sturgulewski. Who is having the problem? Would it be the one that would normally be enforced through H&SS, would that be a logical place to handle this kind of thing?

Sen. Meland. What he is trying to do, I think, is to atleast have the court enter into it. He says 'we've tried to get something done in both cases but cannot find anyone willing to pursue udner either the new law or the compulsory attendance law, we've had 2 or 3 other cases in the district this year that would there have been an avenue, we would have done something. These are not situations where we wish to see anyone punished, and I've never seen anyone punished unless other things were brought into the case besides truance. I think this is quite important too.

I think you kind of have a handle on it. We're not trying to put kids in jail or any such. It seems to be sufficient to have a couple of three cases a year brought before a judge and have him lay out the alternatives to discourage further truancy, this also acts as a deterrant to others who might be considering it and in some cases the judge determines it is not the fault of the child but tht of the parents. In either case it brings the attention of someone who had the power to do something about it instead of having it drift in limbo.

Sen. Hackney. I don't think we are talking about that many kids and so I suppose the logical question that comes is, if we go ahead and pass this bill and the department gets an extra 20 kids around the state dumped on them as the result of it, it it going to cause the department to flounder if we don't allow you any more bodies to . . .

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E. Murktarian. I'm not sure. I don't have the figures available of the number of children we are talking about but again, it has to do with whether or not something which has to do with the school system and primarily should fall under the responsibility of the child action agency.

Sen. Fahrenkamp. It seems to me that truancy is a school district function or school function, this to me is conflict and I'm wondering if we don't have it under the wrong section.

Steve Hole. The department supports the bill without respect to the fiscal implication. Essentially there are two problems with the compulsory attendance law. The first is the issue of remedy and the second is the issue of jurisdiction. In the compulsory attendance statute, the remedy is with the parent, if the parent doesn't care enough to insure that the kid attends school, throwing the parent in jail or fining the parent isn't going to make any difference. The second problem, that of jurisdiction, is that in order to initiation action under the compulsory the school district has to act as a quasi-enforcement role. That is not a role easily assumed by most school districts. The reason the proposed statutory change appears to have some merit is that in those rare instances where the issue is that of jurisdiction, the kid is running loose, there is obviously no parental control, the issues go far beyond compulsory attendance or truancy, but that is one of the issues. It provides a very immediate means for a case to be presented to a court, the court to impose its jurisdiction upon the child if necessary, put him into a foster home. If necessary, take a variety of steps but have immediate reaction with respect to the kid.

In other words, the remedy is with the child. The problem.

Sen. Hackney. I would suggest that we might entertain a motion to pass the bill out with whatever recommendation you feel comfortable with, and attach to it a letter of intent that would say it is not the intent that masses of social workers be hired to take care of the problem.

Sen. Sturgulewski. It says enactment of the bill would essentially remove the responsibility for truance investigation from the various school districts throughout the state. That bothers me. If that's true, that certainly isn't our intent either. There is a flat statement there so if we pass this, will we make the situation worse because we are not getting the schools to do anything.

Sen. Hackney. That is an excellent point. I would not see it that way, I would see it as being an addition of a little more strength for the schools to be able to deal with those occasional situations where habitual truancy is . . .

E. Murktarian. In response. The schools district, I think he mentioned, were having difficulty with assuming the enforcing role in regard to truancy, that role would end up being transferred

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to the Division of Social Services and they would end up with the role of trying to enforce student attendance. Petitioning the court, bringing it under court jurisdiction is not necessarily going to ensure that a child is going to go to school even if you place him in a foster home.

Steve Hole. We don't see this bill as having any impact upon present truancy monitoring procedures that districts might have in terms of home-school coordinators, counsellors, those kinds of things. Again, it's a mechanism that would be imposed in very rare instances, but where it is very truly needed. It only goes one step beyond what the districts presently do in that it provides a mechanism to bring that which is a real problem for very few children to the attention of someone who can make a difference. Presently, there is no jurisdictional control in terms of a district doing anything with a problem child who really needs some help, but who does not attend school or whose parents do not care.

Sen. Sturgulewski. Any statute that we might have that deals with the responsibility of the school district to handle truancy would still be in effect. I would move that we pass out SB 88 with individual recs with the letter of intent covering two areas, one regarding social workers and the other the fact that it is not our intent this bill would remove this responsibility for truancy investigation from the various school districts.

No obs, so ordered.



Alaska State Legislature

Senate

Committee on

Health, Education & Social Services

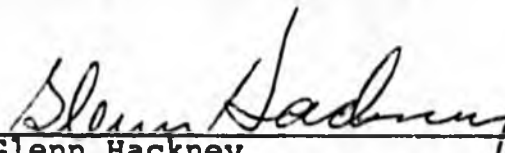
Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Glenn Hackney, Chairman
Frank Ferguson, Vice Chairman
Mike Colletta
Bettye Fahrenkamp
Arliss Sturgulewski

LETTER OF INTENT FOR SB 88

It is the intent of the Senate Health, Education and Social Services Committee that those rare cases of need with which the School District cannot cope would be addressed by SB 88. It is not the intent that this would remove from the School Districts their present role in enforcing attendance.


Glenn Hackney
Chairman

Date: March 14, 1979

INTRODUCTION OF BILLS (Senate) (Cont'd)

Truant
Children

SENATE BILL NO. 88, by Senator Meland. Amends AS 47.10.010(a)(2) (A), under Art. 1 "Jurisdiction of the Juvenile Courts," to add "habitually truant from school" to conditions which bring a minor under the jurisdiction of the Juvenile Courts. (1977 amendment re-wrote (a) and omitted this condition.) Does not provide for effective date.

Introduced January 31 and referred to HESS, then to Judiciary.

POSITION PAPER

SENATE BILL NO. 88

"An Act relating to truant children."

This Bill would amend AS 47.10.010(a)(2)(A) to include habitual truancy from school as a reason for adjudication of a child as a "child in need of aid."

The Governor's Children's Code Task Force, after considerable study and deliberation, recommended that truancy be eliminated as a reason justifying adjudication of a child as a child in need of aid. The Department supported this recommendation which was accepted by the Legislature and became law in 1977.

The Department does not consider truancy alone as sufficient justification for it to intervene in a family and to initiate court action. If the Department is required to assume this additional responsibility it would be very costly, requiring the hiring of staff to deal with this problem area.

In addition, if a child protection situation such as abuse, neglect, or abandonment exists in addition to habitual truancy, the Department can intervene and initiate court action under AS 47.10.010(a) as it presently reads. Under AS 47.17.020, schools are required to report child abuse and neglect situations to the Department of Health and Social Services.

RECOMMENDED BY: Art Holmberg DATE: 3/5/79
Art Holmberg, Director
Division of Social Services

APPROVED BY: Helen D. Beirne DATE: _____
Helen D. Beirne, Commissioner
Department of Health and Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. Senate Bill No. 88
 Title An Act relating to truant children.
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Health and Social Services
 Program Category Affected Social Services
 BRU, Program, or Subprogram(s) Affected Social Services BRU
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		\$1894.6	\$1989.3	\$2088.8	\$2193.2	\$2302.9
200 TRAVEL		4.6	4.8	5.1	5.3	5.6
300 CONTRACTUAL		6.1	6.4	6.7	7.1	7.4
400 COMMODITIES		15.3	16.1	16.9	17.7	18.6
500 EQUIPMENT		25.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		\$1946.1	\$2016.6	\$2117.3	\$2223.3	\$2334.5

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND		\$1946.1	\$2016.6	\$2117.3	\$2223.3	\$2334.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	51	51	51	51	51
PART TIME					
TEMPORARY					

*Soc. Work. 3
Range 16
2/20/79*

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Enactment of this bill would essentially remove the responsibility for truancy investigation from the various school districts throughout the state. It is difficult, at this time, to determine exactly how many social workers would be required to meet this obligation. In all, districts would require part of one social worker's time, larger districts more than one worker. We have taken, therefore, an average of one per district, with the exception of Anchorage, where we have established six. The salary costs are based on current salary schedules, plus the additional FY 79 4% increase and an estimated 5% salary increase for FY 80. Reimbursement of mileage at \$.25 a mile x an average of 30 miles a month x 51 workers would minimally be required. Telephone rental would be necessary at an average of \$10 a month for each worker; general office supplies at an average of \$300 a year each; and a desk and chair, at an average of \$500 each.

IV. DATE 2/20/79 PREPARED BY Art Holmberg, Director
 AGENCY Division of Social Services
 PHONE 465-3170
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

GREATER SITKA BOROUGH SCHOOL DISTRICT

ACCREDITED BY THE NORTHWEST ASSOCIATION OF SECONDARY SCHOOLS & COLLEGES

CE SP 88



P. O. BOX 179 SITKA, ALASKA 99835

NELAND J. HAAVIG
SUPERINTENDENT

February 1, 1979

Senator Glenn Hackney, Chairman
Health Education and Social Services Committee
Pouch V
Juneau, AK 99811

Dear Senator Hackney,

I am writing in support of Senate Bill number 88 relating to truant children.

The juvenile statutes which were adopted a couple of years ago took out any specific wording regarding truancy. Thus no one wants to touch the problem. What we have in effect is a compulsory attendance law with no effective way to enforce it. I have been advised by both our school attorney, Mr. Randy Weddle of Juneau, and the Assistant District Attorney, Mr. Jim Hanley, that it is virtually impossible to use the compulsory attendance law as one must prove "willful intent" on the part of the parent.

These are not situations where we wish to see anyone punished and I never saw anyone punished under the old statute unless other things were brought into the case besides truancy. It seems to be sufficient to have a couple or three cases a year brought before a judge and have him lay out the alternatives to discourage further truancy. This also acts as a deterrent to others who might be tempted to be truant from school. In some of my past cases the judge determined that it was not the fault of the child but that of the parents. In either case it brings the situation to the attention of someone who has the power to do something about it.

It has been my experience that when students are habitually truant from school they end up getting into other trouble with the law when they should have been in school.

I urge passage of Senate Bill 88 so that schools again have an effective tool to see that children are in school attendance as they should be to become productive citizens.

Sincerely,

Daniel D. Dunsing
Daniel D. Dunsing, Principal
Blatchley Junior High School

DDD/11

cc: Senator Meland

Box 1732

Sitka, Alaska

February 15, 1979

Senator Hackney:

I would like to express my concern over the too frequent situation of children under the age of 16 years who attend school only sporadically and whose education is then severely limited. Many of these children begin having serious attendance problems in fifth or sixth grade - sometimes earlier. At this time the Court has been unwilling to give attention to this problem, even after unsuccessful efforts to work with the family.

I hope that Senate Bill # 88, presently in committee, will help by providing one more alternative in working with these students and their parents. Please support this bill.

Thank you

Susan White



Gateway Borough School District

SCHOENBAR JUNIOR HIGH SCHOOL
217 Schoenbar Road
KETCHIKAN, ALASKA
99901

CHARLES MARKSHEFFEL, Principal

February 27, 1979

Senator Glen Hackney, chairman
Health Education and Social Services Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Hackney:

This is to ask your support of Senate Bill 88.

Without teeth in a truancy law we will continue to lose students who at 13 and 14 years of age make their own decisions as to school attendance.

Thank you.

Sincerely,

C. Marksheffel

CC: Pete Meland

GREATER SITKA BOROUGH SCHOOL DISTRICT

ACCREDITED BY THE NORTHWEST ASSOCIATION OF SECONDARY SCHOOLS & COLLEGES



P. O. BOX 179 SITKA, ALASKA 99835

NELAND J. HAAVIG
SUPERINTENDENT

Etolin Street School
February 7, 1979

Senator Glenn Hackney
Chairman
Health, Education, and Social Services Commission
Pouch V
Juneau, Alaska 99811

Dear Senator Hackney:

Ever since the "child in need of supervision" category was wiped off the books several years ago, there have been no teeth in the compulsory school attendance laws of this state. As an elementary school principal in Sitka, I have observed numerous occurrences of habitual absence from school on the part of young school-age children. In all of these cases there was neglect on the part of the parents of these children, in my opinion, and the state is doing nothing to correct this bad situation.

I go to a lot of effort to document cases, then turn the information over to Division of Family Services or to the State Division of Corrections. They try, in many cases, to help, by contacting the parents and talking to them. But there seems to be little they can do based on poor attendance at school, alone.

It is not my wish that the schools take over the affairs of parents. But when those parents violate the laws of the state by not seeing to it that their children get to school regularly, or when a parent cannot handle a child and the child will not go to school or do anything else his or her parents tell him to do, that child needs some kind of supervision.

I therefore support Senate Bill 88 and urge that your committee recommend it to the full Senate.

Very truly yours,

Ronald A. Rhodes
(Principal)

RAR:dem
Enclosure
Copy to Senator Pete Meland

STATE OF ALASKA

JAY S. HAMMOND
GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

POUCH F--ALASKA OFFICE BUILDING
JUNEAU 99811

March 7, 1979

Senator H.D. Meland
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

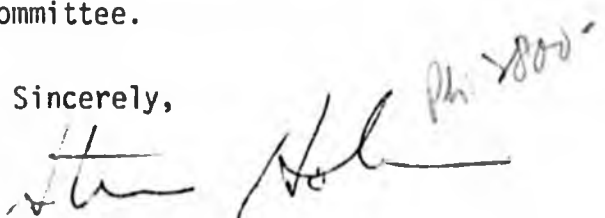
Dear Senator Meland:

Re: Our Telephone Conversation
Concerning SB-88

After discussing your bill with some attorneys, it appears that enactment of the legislation proposed in the above referenced bill could facilitate the remediation of habitual truancy problems.

I would be willing to testify in favor of the bill should it come up for hearing in a legislative committee.

Sincerely,


Steve Hole
Education Administrator

P. O. BOX 179 SITKA, ALASKA 99835

RELAND J. HAAVIG
SUPERINTENDENT

December 15, 1978

Senator Pete Meland
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Pete,

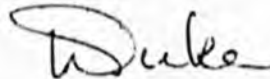
Time is rolling by and I wanted to make contact with you on the truancy matter one more time before the 1979 Legislature gets under way.

I asked Robert Schell, Baranof Elementary Principal, to bring the truancy subject up at the Alaska Elementary Principals' meeting this year. He reported back to me that he didn't have to as others had the same concern and brought up the subject. He assures me that there will be a letter coming from the Elementary Principals' Association supporting our proposed legislation. Perhaps you can advise us as to where such a letter should be directed and what other kinds of support would be helpful.

Also, enclosed is a letter from the school attorney outlining an interesting problem due to the new statutes.

Have a pleasant Holiday.

Sincerely,



Daniel D. Dunsing, Principal
Blatchley Junior High School

DDD/11

Enclosure

LAW OFFICES OF
FAULKNER, BANFIELD, DOOGAN & HOLMES
SUITE 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801
(907) 586-2210
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RANDALL J. WEDDLE
WILLIAM B. ROZELL
LAWRENCE T. FEENEY

CHARLES N. DRENNAN
TOM BATCHELOR
ANTHONY M. SHOLTY
JAMES R. WEBB
JAMES N. REEVES

HERBERT L. FAULKNER (1882-1972)
FRANK M. DOOGAN (1923-1977)

ANCHORAGE OFFICE

ANCHORAGE OFFICE
510 FIRST NATIONAL BANK BLDG.
425 G STREET
ANCHORAGE, ALASKA 99501
(907) 274-0886
TELEX 090 26-455

November 29, 1978

Neil Haavig, Superintendent
Greater Sitka Borough School District
P. O. Box 179
Sitka, Alaska 99835

Dear Neil:

The California Supreme Court has recently handed down a decision of some importance to school districts. Since there is no Alaska case law directly on this point and since the Alaska Supreme Court often looks to the California Supreme Court as new law develops, this decision could have an impact on the potential liability of school districts in this state.

In Hoyem v. Manhattan Beach City School District, the ten year old plaintiff had left the school grounds, apparently without the knowledge of the administration, while classes were still in session. He was thereafter struck by a motorcycle at a public intersection and was seriously injured.

He sued the school district on the grounds that the accident was a proximate result of the school district's negligent supervision of him in failure to keep him on the school premises. The school district moved to dismiss the Complaint on the grounds that they could not be liable for his leaving the school premises contrary to regulations and a resulting accident which occurred off the school grounds.

The California Supreme Court ruled that the Complaint did state a claim against the district and that it was a jury question as to whether the district had been negligent in failing to properly supervise the plaintiff and whether the accident was a proximate result of that failure. The case has now been sent back for a jury trial on these issues.

November 29, 1978

Although this was a decision by a narrowly divided Court (4-3), it poses a potential expansion of district liability if it is to be followed in this state. It is particularly troubling since, given the recent amendments to the Children's Code which make truancy prosecutions exceedingly difficult if not impossible, districts will have their truancy procedures strictly scrutinized if they ever find themselves in a case such as this one. Although there may well be cause for frustration as to the effectiveness of procedures to restrict truancy problems, it would appear that just from the potential liability standpoint it is important that district personnel continue to advise parents of truancy problems and follow the other procedures which the district may specify in this regard.

Yours very truly,

Lawrence T. Feeney

LTF:am

Handwritten:
TRUANCY
FILE



Superior Court

State of Alaska

FIRST JUDICIAL DISTRICT
JUNEAU COURT and OFFICE BUILDING
POUCH V
JUNEAU, ALASKA

99811

CHAMBERS OF
THOMAS B. STEWART, JUDGE

May 9, 1978

The Honorable H. D. "Pete" Meland
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Pete:

This is in response to your letter of May 3, 1978, asking my comments on Senate Bill 490, concerning truant children. At the outset I should note that whatever is said in this letter constitutes only my own views and does not in any way reflect the views of any other judges or of the court system at large. I cannot speak officially on behalf of the court system concerning any legislation.

Among the materials you forwarded was a memorandum from Joseph A. Guthrie of the Legislative Affairs Agency which purports to state that I have refused to exercise any jurisdiction at all over truants. This is not a correct statement, and I do not know where Mr. Guthrie may have obtained it. In fact, no one has sought to charge a minor before me as a delinquent because of truancy, and accordingly I have never had any occasion to rule on the question judicially. It is possible his comment came at second or third hand because of some discussions in which I and other judges informally raised questions about the meaning of various provisions of the children's code as substantially amended in 1977.

It seems apparent from those revisions of last year that the major effort at revision of the juvenile code, which was largely sponsored by an active group in Anchorage, included an intent to take truant children, and others who were not delinquent in the sense

May 9, 1978

of violating criminal laws, completely out of treatment by the juvenile justice system. In other words the intent appeared to be to have problems such as truancy, alcoholism and other matters handled by agencies not connected with the police, district attorneys, or courts. This is a view that has affected the juvenile laws in many states throughout the nation in recent years. Without commenting on the overall merits of this view, I would at least express concern that this removal of so-called "status offenders" from the justice system leaves a void, unless some other societal agencies are prepared to address the problems and needs of these minors in some meaningful way. Many hold the view, for example, that truancy is a matter that should be handled within the confines of the school system and their relationships with parents, and this view seemed to be reflected in the amendments to the juvenile code that were adopted last year. You may be able to confirm this in more detail, if you wish, by contacting Andrew Brown, the attorney who prepared the language at the behest of the group which sponsored the amendments. Another person knowledgeable in this area would be Betsy McGuire, who was executive director of the office of child advocacy (since abolished) that coordinated the efforts.

Senate Bill 490 as drafted would of course make clear that truancy is a matter that should be handled through the courts, and the language proposed would seem to be fully sufficient for that purpose.

With respect to the amendment that suggests some changes in AS 14.30.045 and .030, it appears that this language would broaden the utility of the compulsory school attendance law to enable prosecution, or the threat of prosecution, of parents who are not responding when their children are truant. I am in general inclined to view that this statute is addressed to parents and is not a suitable vehicle for finding a child delinquent. Again, however, this is a view not determined from any case brought against a child to find him or her delinquent as a result of truancy. Accordingly, I would not want any statements made here to suggest the position I might take in a case where that issue is appropriately argued and submitted for judicial treatment. I am generally in accord with the views expressed to you by others that intent to violate the statute must be found before a conviction could occur, and this complicates the enforcement of these provisions of the law. The language offered would appear to be suitable to accomplish the purpose apparently intended.

The Honorable H. D. "Pete" Meland

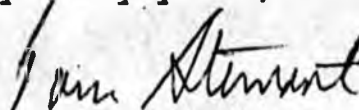
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May 9, 1978

Please let me know if I can be of any further assistance on this subject, which I would be glad to discuss with you informally if you wish to call.

With personal regards,

Very truly yours,

A handwritten signature in cursive script, appearing to read "Tom Stewart".


Thomas B. Stewart
Presiding Judge

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 3, 1978

SUBJECT: Court Jurisdiction over Truant Children (W.O. 4818)
TO: Senator H.D. Meland
FROM: Joseph A. Guthrie, Legislative Counsel 

Mr. Dunsing's problem arises from a legal dispute over the coverage of AS 47.10.010(a), following its amendment last year by sec. 32, ch. 63, SLA 1977. AS 47.10.010(a) lists those acts committed by children, or situations in which children may find themselves, which if established by proof, give the court "jurisdiction" over a minor child. In this context, jurisdiction refers to a legal relationship between the court and the child whereby the court has the power to impose any of the number of dispositions (e.g. institutionalization, probation, termination of parental rights) on a child found to be under the court's jurisdiction.

Prior to last year's amendment, AS 47.10.010 provided that a court could exercise jurisdiction where a child was proven to be "habitually truant." That phrase was removed by sec. 32, ch. 63, SLA 1977.

The legal dispute is over whether a court can still exercise jurisdiction over a truant. The district attorneys and Judge Craske say that jurisdiction can still be exercised by finding a child to have violated AS 14.30.010 and AS 14.30.020 (the compulsory school law) and thus by virtue of those violations of laws, a delinquent under AS 47.10.010(a)(1). Judge Stewart, on the other hand, argues that the intent of the legislature in enacting sec. 32, ch. 63, SLA 1977 would be violated in finding a truant delinquent and therefore refuses to exercise any jurisdiction at all over truants.

Senator H. D. Meland
February 3, 1978
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This ambiguity could be solved by adding the words "habitually truant from school" to AS 47.10.010(a)(2)(A), thereby making it read:

Sec. 47.10.010. JURISDICTION. (a) Proceedings relating to a minor under 18 years of age residing or found in the state are governed by this chapter, except as otherwise provided in this chapter, when the court finds the minor

(2) to be a child in need of aid as a result of

(A) the child being habitually absent from his home, habitually truant from his school, or refusing to accept available care, or having no parent, guardian, custodian, or relative caring or willing to care for him, including physical abandonment by...

Please let me know what you want to do.

JAG:hjd

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC - STATE CAPITOL
JUNEAU, ALASKA 99811

June 5, 1978

The Honorable H. D. "Pete" Meland
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 490

Dear Senator Meland:

Your letter of May 3, 1978, to Juneau District Attorney Larry Weeks concerning the problem of children truant from school has been referred to my office for response. Please accept my apologies for the delay but we have been tied up until just the other day in work with Senate Judiciary on the proposed revision to the criminal code.

As I understand it, what you wish to accomplish through the referenced legislation is to permit the superior court to become involved in serious truancy matters without the necessity of proving that a crime under AS 14.30.090-.040 (the compulsory education provisions) has been committed.

Your question is whether the bill as originally introduced or the proposed amendment attached to your letter would adequately address the issue. It is our opinion that the better approach is embodied in the original version of SB 490.

The original version of the bill directly and concisely clarifies the jurisdictional question concerning habitual truants and would clearly permit court intervention without resorting to criminal proceedings and attaching the stigma of delinquency to the child. An habitually truant child would be deemed as a "child in need of aid" under AS 47.10.010(1)(2) and would be treated in a similar manner as the other statutory categories of runaway and abandoned children.

The Honorable H. D. "Pete" Meland

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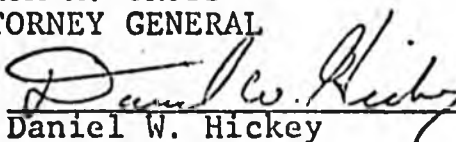
The proposed amendment attached to your letter would accomplish two things unrelated to the goal of the original version of the bill. First, section 1 of the amendment would permit an habitually truant child to be suspended from school. It is our imprssion from the supporting materials attached to your letter that the desired result is to require children to attend school and not to prohibit them from doing so. Second, section 2 of the amendment merely makes specific what has always been apparent from the face of the statute, that parents and guardians may be criminally charged with a violation of the compulsory education law.

I trust that we have been responsive to your inquiry. If you have any further questions, please do not hesitate to let us know.

Very truly yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By:



Daniel W. Hickey
Chief Prosecutor

DWH/mt.