HB
210
1/3

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

2/23/81

(5)

Date: _____

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had HB 210

"An Act relating to child custody."

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)

[X] replace with CS for HB 210 [✓] same title [ ] new title

and recommends _____

[X] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Terry Martin

Anita Gorman

MEMBERS HAVING
OTHER RECOMMENDATIONS:

D Smith No Rec

F Malone - Do Pass with amendments

CHAIRMAN

H 60 (Rev. 12/78)

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 210

"An Act relating to child custody."

House Bill No. 210 proposes changes to the existing child custody statutes by providing for shared custody. Current statute provides for awarding custody on the basis of the best interest of the child, and states that neither parent is entitled to preference in awarding custody.

Proponents of this Bill argue that despite the fact that the current statute does not give preference to either parent, judges and attorneys continue to give preference to mothers both in the actual awarding of custody by judges, and in advice given to the divorcing parties by attorneys prior to a court appearance. Some consequences of the present imbalance in the current situation include child stealing, the refusal of one parent to allow the child to have contact with the other parent, and, in some cases, being held hostage by one parent, the refusal of the other parent to then provide support when so ordered, not to mention the emotional anguish the child experiences.

It is claimed that if shared custody were presumed to be in the best interest of the child, not only would judges be required to consider shared custody, but attorneys, and the divorcing parties themselves, would be required to consider ways of implementing shared custody prior to the court hearing.

The first question in considering this Bill is whether the concept of shared custody is good social policy; that is, is it in the best interest of the child? A review of the literature in the last 20 years indicates the importance of both parents to a child's development, and shows the profound trauma divorce has on all parties involved, but perhaps most disastrously on children. One study reports that children of divorce are referred for out-patient psychiatric evaluation at nearly twice the occurrence in the general population. There is general agreement in the field of social work and family therapy that children need continuity in their relations, and that a child will suffer less from a divorce if he can continue to have a relationship with each parent. As one author said, "Divorce does not end relationships in post-divorce families, it changes them...joint custody is a concept that provides a better opportunity for the children to maintain a close relationship with each parent and, thus, gain the benefit of two separate but interdependent homes."

What is shared custody, and what does it take for it to be successful? Custody means having possession, power, authority, and responsibility for a person. Shared, or joint, custody maintains both parents' legal responsibility for the child's upbringing, sharing as equally as possible the authority and responsibility for the decisions that significantly affect the life of their child. It may or may not include shared physical custody, and it can take many different forms or arrangements, since it requires the parents to negotiate an agreement as to the care of the child.

In order for shared custody to be successful, many writers agree that the following conditions must be present:

1. Former spouses, despite their continuing differences, must be able to communicate about parenting and must be able to negotiate agreements about the child's health, education, and welfare. (Both experience and studies have shown this is possible.)

POSITION PAPER/Department of Health & Social Services

2. Geographical proximity, or logistical ways of sharing parenting must be arranged.

3. The children must be agreeable to shared parenting.

4. No other major contraindications must be present. Examples of valid contraindications include, but are not limited to, physical or sexual abuse or assault of the child or of one former spouse by the other, unless there is evidence of rehabilitation.

While the Department strongly supports the concept of shared custody, there are a few problems with this Bill, as drafted:

1. Page 2, Lines 2-23: There is a list of considerations for the court to use in determining the best interests of the child. The Department questions if this is an all-inclusive list, or is there leeway for a judge to consider some other factors, if found to be relevant in a particular case?

2. Page 3, Lines 7-10: Because shared custody requires that an agreement be reached between the parents, there should only be a presumption of shared custody if the parents agree. However, a court should also have the authority to order shared custody when the judge decides that it is in the best interests of the child after hearing testimony from parents who are not requesting it. Therefore, the Department would recommend inserting "and the parties agree" on Line 8 after the word "state."

3. The Department recommends the deletion of Section 25.20.130, "Preferences on Award," Lines 3-23. The Department disagrees with the premise that this order of preference would necessarily be in the best interest of the child.

4. The Department would recommend that the definition of shared custody be limited to legal custody, and not necessarily include physical custody. This is in the belief that, wherever possible, shared physical custody, as well as legal custody, is beneficial but recognizes that shared physical custody is not always possible.

RECOMMENDED BY: _____
John R. Pugh, Director
Division of Family and Youth Services

DATE: 1/26/82

APPROVED BY: _____
Helen D. Beirne
Commissioner

DATE: 1/29/82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 210
Title "An Act relating to child custody."
Requested by Rogers and Gardiner Date

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Social Services
BRU, Program, Or Subprogram(s) Affected Juvenile Custody
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

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

House Bill No. 210 has no fiscal impact on the Department of Health and Social Services.

IV. DATE 1/24/83 PREPARED BY John R. Pugh, Director
AGENCY Division of Family and Youth Services
PHONE 465-3170

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

JFC

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 210

"An Act relating to child custody."

The Department of Health and Social Services supports House Bill 210, relating to child custody awards between divorcing parents. House Bill 210 enumerates an extensive list of factors to be considered in determining the best interests of the child, and allows for shared custody and for pre-trial mediation in child custody disputes. Furthermore, the Bill gives first preference in awarding custody to shared custody between the parents, and secondarily, to the parent determined by the court to be more likely to allow the child to have frequent and continuing contact with the parent not granted custody. Two other options are listed if neither parent is able to provide care and guidance to a child.

The notion of shared custody is a much better option for children - and their parents - than the sole custody arrangement prevalent today. Both parents are vitally important to a child's well-being and if the parents are able to work out a shared approach to the upbringing of a child, they should be highly encouraged to do so.

It is important, from a social policy perspective, for this Bill to make shared custody the preferred option in awarding custody. Our society's notions about child custody are still rooted in the belief that when a marriage breaks up, one person takes over the primary parenting role, and that person is the mother. Fathers are generally not considered by judges, or by their attorneys, as being able to assume the parenting role, even when they want to have custody and request it. Not only is this attitude harmful to the fathers who are thus deprived of a real relationship with their children, but the children are seriously deprived of a realistic relationship with their fathers. (Fathers either fade out a child's life or else parent and child see each other in artificial situations for very brief periods of time). Mothers, also, lose in these situations because they then have a full-time responsibility which can become a heavy burden indeed.

A few statistics will underscore the significance of this proposed legislation. Between 1966 and 1976, the role of divorce in the U.S. increased by 113%. Whereas in 1966 one divorce was granted for every four marriages performed, by 1976 the ratio had changed to one divorce for every two marriages. Approximately 65% of all divorces and annulments in the U.S. occur in families with children under 18 years of age. Yet the number of households headed by males is increasing. In 1974, according to the Census Bureau, there were nearly 1.5 million families headed by single fathers.

RECOMMENDED BY: John R. Pugh

John R. Pugh, Director
Division of Family and
Youth Services

DATE: 3/11/81

APPROVED BY: Helen O'Beirne

Helen O. Beirne
Commissioner

DATE: 3-12-81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 210
Title "An Act relating to child custody."
Requested by Rogers and Gardiner Date 2/23/81

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Social Services
BRU, Program, or Subprogram(s) Affected Juvenile Custody
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC						
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

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

House Bill No. 210 has no fiscal impact on the Department of Health and Social Services.

IV. DATE 2/26/81 PREPARED BY John R. Pugh, Director
AGENCY Division of Family and Youth Services
PHONE 465-3170

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (If not Legislator Named) OMB Approval [illegible] Date 3/4/81

JJ-001 (Rev. 12/80

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SECTIONAL ANALYSIS

HOUSE BILL 210: An Act relating to child custody.

Section 1 PURPOSE

Bill seeks to assure children "frequent and continuing contact with both parents after the parents have separated..." . Amends child custody laws in A.S. 9.55.205 and 25.20.060. Intent is to grant to both parents equal opportunity to guide and nurture the children of the marriage. In addition, out-of-court child care agreements are encouraged.

Section 2 Amends present section of A.S. 9.55.205 specifying that the court shall determine custody in accordance with the best interest of the child under A.S. 25.20.060-25.20.180 (new sections added by the bill-to follow below). Adds that the court shall consider the child's preference if the child is of sufficient capacity to form a preference. The court shall consider the "desirability of offering the child a variety of life experience". Also, the court may not consider lifestyle, income, marital status, social or cultural environment of either parent unless detriment of such factor towards the child can be shown.

Section 3 Custody of the Child. Bill expands on existing section relating to child custody (AS 25.20.060) by adding several new sections to AS 25.20 relating to custody disputes and awards. New sections added are set out in the following section.

Section 4

--Sec. 25.20.070 "Shared Custody". When a question involving custody is before the court, there is a rebuttable presumption that shared custody is in the best interest of the child.

--Sec. 25.20.080 "Mediation". Allows court considering child custody case to request the parties to participate in pre-trial mediation.

--Sec. 25.20.100 "Award of Custody". Outlines conditions for award of shared custody (by application and agreement). Also provides that court shall enter reason for denying shared custody when it declines such.

--Sec. 25.20.200 "Modification or Termination of Custody" Court may modify or terminate custody award if in child's best interest.

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

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SECTIONAL ANALYSIS (cont'd)
HB 210

--Sec. 25.20.110 "Preference of the Child" If the child is of sufficient age and capacity to form an intelligent preference, such preference shall be considered by the court.

--Sec. 25.20.120 "Factors for Consideration by the Court". Outlines factors to be considered by the court in an award of shared custody.

--Sec. 25.20.130 "Preferences on Award". Sets forth the order of preference by which custody should be awarded "according to the best interests of the child".

--Sec. 25.20.140 "Temporary Custody". Unless harm is shown, child shall have equal access to both parents while custody is determined.

--Sec. 25.20.150 "Award of Custody to Nonparent". No custody shall be awarded to a nonparent unless it is demonstrated that award of custody to a parent is detrimental to the best interests of the child.

--Sec. 25.20.160 "Pleadings" An allegation that custody award to the parent would be detrimental may only appear in the pleadings by a general allegation to that effect.

--Sec. 25.20.170 "Access to Records of the Child" A parent not granted custody may have access to medical, school, and other records of the child.

--Sec. 25.20.180 "Definition" Shared Custody is defined as "an award of custody of the child to both parents and includes an award of physical custody which assures the child of frequent and continuing contact with each parent".

Have you made a deliberate decision for sole custody, to the exclusion o: joint custody?

CONSEQUENCES OF SOLE CUSTODY

Possible legacy in view of:
1. Availability of joint custody.
2. Alternate but excluded parent proposing joint custody.
3. Awareness by children of joint custody.

Sole custody contributes to

<u>Uneasiness</u> among young children,
<u>Skepticism</u> among older children,
<u>Reanalysis</u> as adults about a sole custody childhood.

For the parent imposing a decision for sole custody, the following is worth considering:

Recognition and reactions (by the child):

ARTIFICIAL RESTRAINTS	Artificially kept away from the non-custodial parent's residence for any meaningful residence or period of time.
COMPARISONS	Comparative situation, in relation to that of families or lifestyle of peers.
IDEALIZED	Tends to make an ideal, or saint, of the ostracized parent and stimulates sympathetic consideration for the noncustodial parent.
'CRAZY-MAKING'	'Crazy-making' insofar as 'words of sweetness' not being compatible with an ostracitzation and isolation of the non-custodial parent. - Words and actions don't correlate; leads to skepticism about such a parent.
RESENTMENT	Arbitrariness or rigidity tend to characterize the covetous custodial parent. Adolescent revolt is heightened. Natural inclinations of independence and teen-age revolt are stimulated by the existence of an obvious reason to resent the covetous sole custodian.
IDENTITY-SEARCH	Lifelong search for identity, speculation about the missin portion of ones parental self.
PROMISCUITY & LONGING	Promiscuity and sexual activity is comparatively higher an earlier among children of non-nuclear families, and presumably among those with a close, consistent, and unobstrcuted contact with the alternate parent.
VISITATION RESENTMENT	Scheduled visitation leads to resentment. Disdain for a control agreement conceived by one parent for imposition upon the other without consideration of the child's independent proferences.

BLAME	Feelings of loss and abandonment shifted to blame of the custodial parent for having induced or contributed to the problem.
DISTURBANCE	Disturbed relations with others, particularly in close relations with the opposite sex, which may lead to a need for professional analysis later-on that justifies a resentment of the sole custodian.
LAW & JUSTICE DISDAIN	Forces or induces the sole custodian parent to place the responsibility, or blame, or wisdom of the decision on the judge or court....thereby inducing skepticism in the child about the equitability or justice of the court system.
MANIPULATION OF POWER	Among self-willed children growing to adulthood, serves as a demonstration that manipulation of the court system can be used to enhance or impose power, to the disadvanta of otherwise blameless or naive people.
REJUSTIFICATION	Requires a continual rejustification, by the sole custodi to the child about the unworthiness of the excluded parer to participate in joint custody. If the justifications be given are not borne-out by the conduct of the excluded parent, increased skepticism of the custodial parent may result.
DEPENDENCY	Induces a fawning, catering, 'feeding' and 'spoiling' by the sole custodian of the child in order to cultivate the child's dependency on that custodian.
UNWARRENTED EXPECTATIONS	Could lead to such a unilateral or selfish adulthood that reminders will be forthcoming about the failings of the sole custodian parent and the influences that spawned unwarranted expectation in adulthood.
RAGE	Cultivates rage which, because of the powerlessness of childhood, is constrained until adulthood triggers or unleashes a hidden recognition of the rage. Resentment of a controlling sole custodian is expressed against someone else who 'reminds' the former child of childhood rage-resentments.

Reactions by children to sole parent custody

1. Feelings of loss and abandonment.
2. Attachment and separation anxiety.
3. Loyalty conflicts, particularly among latency-age children (from 5 to puberty
4. Strained interactions with custodial and non-custodial parents.
5. Disturbance in children's play and social relations.
6. Disturbance in cognitive performance and changes in IQ.
7. COnfusion in sex role identification.

Problems for the individual parent in sole custody situations

1. Loss of familiar activities and habit systems.
2. Loss and separation anxiety.
3. Role loss, particularly among non-custodial parents.
4. Decline in ability to parent.
5. Physical symptoms related to separation and loss of parental role.
6. Practical problems, such as economic instability.
7. Lowered self-concept.
   Fathers: Greater initial changes, rootlessness.
   Mothers: Feeling physically unattractive.
8. Declining feelings of competence.
9. Loneliness.

A R T I C L E S

S U P P O R T I N G

J O I N T C U S T O D Y

Compliments of
Mark Lewis
Box 136
Hyder, Alaska 99509

QUOTATIONS FROM PROFESSIONAL ARTICLES
SUPPORTING JOINT CUSTODY

"Divorce proceedings and child custody cases should no longer follow an adversary model, but one of arbitration and mediation. Joint custody provides a reasonable approximation to the natural marital situation."

Richard A. Garnder of the Columbia University, College of Physicians and Surgeons wrote in the Journal of the American Academy of Psychoanalysis, April 1978.

"Our other major finding about how important it is for a child to keep a relationship with both original parents points to the need for a concept of greater shared parental responsibility after divorce. In this condition each parent continues to be responsible for, and genuinely concerned about the well being of his or her children and allows the other parent the option as well."

Alice Arbanel, who studied Shared Parenting after separation and divorce and published her findings in The American Journal of Orthopsychiatry, 1979.

"While none of the families has found joint custody to be trouble free and most are involved in continously questioning its effects, there is no doubt that joint custody is working for them all. In most incidences the children are thriving not merely adjusting and the parents themselves are working out new and they believe, productive lifestyles."

Mel Roman, Albert Einstein College of Medicine, has studied 40 families who are presently practicing joint custody and concludes in "The Case for Joint Custody.

"Another belief about joint custody is that children end up being pawns in parental battles, and that this produces a situation of divided loyalities. Quite the contrary, children often seem "used" in a sole custody arrangement because of the inherently unequal distribution of power between parents. In joint custody arrangments, however, parental power and decision making are equally divided, so there is less need to use children to barter for more.

We tend to approach families of divorce as though they truly consist of only "one parent" as though the non-custodial parent has ceased to exist. Yet research is abundantly clear that, with few exceptions, the trauma of divorce can be minimised by the child's continuous open and easy access to both parents. We therefore have a responsibility to do

what we can to support the involvement of the non-custodial parent, both for the sake of that parent and for the benefits that accrue to the child... Rather than support the imposition of legal visitation restrictions, we should do everything in our poor to maximize contact between the child and both parents. One clear way of doing that is through joint custody arrangements."

Judith Brown Greif, Division of Child-Adolescent Psychiatry, Albert Einstein College of Medicine studied 40 middle class divorced fathers. She concludes in The American Journal of Orthopsychiatry, 1979

'The professionals agree and point to these trends in therapy -- Joint Custody is in line with trend in courts to award custody to the best prepared parent. It involves continued co-parenting and extremely relaxed visitation rules and demands a strong commitment in time and energy by both parents. The known results, thus far, are successful."

Article in Business Week, April 2, 1979

"Parents do not divorce their children, they divorce each other."

Dr. Lee Salk, who we all know.

"Many people object that parents who cannot agree during marriage certainly cannot be expect to reach agreement on child related matters after divorce. Indeed, some infuriated or disturbed parents will never chart a rational course with regard to their children. Yet, it seems clear that our society must encourage fathers and mothers to accept the importance of continuity in parent-child relationships after divorce."

Judith Wallerstein and Joan Kelly, who studied 60 families in the Children of Divorce Project and published their findings in Psychology Today, January 1980.

"Hence, joint custody under proper circumstances, may be the closest remedy to the shattered ideal and offers viable options in normally dichotimized custody dispositions. Morever, parents relegated to seeing their children only intermitefently experience feelings of deep loss and often react by limiting involvement with their children. Decidedly, conventional single parent custody arrangments not only debilitate sustained involvement with both parents but tend to create de facto ex-parents and emotionally deprived children"

People ex. rel Watt v. Watt, 77 Misc. 2nd 178 (1976); Annot. 70 ALR 3rd 269 (Guardian ad litem report.

"From the results of the survey it is concluded that father absense negatively affected the arithmetic achievement of elementary school children."

Beatrice Thompson, Ph.D. studied 105 3rd - 5th grade children in western South Carolina, divided into two equal groups -- father absent and father present to see if there was any difference in arithmetic achievement. A summary in Dissertations Abstract International, June 1979.

"It was little comfort to these children that they saw their father on occassional visits. The typical visiting pattern of two weekends a month, established by custom and the court, was clearly not sufficient to fulfill the expectations of the seven and eight year old boys. Such a pattern was experienced by most as depriving and as inadequate to nourish and make gratifying the relationship."

Judith Wallerstein and Joan Kelly, mentioned before, also studied, "The Effects of Parental Divorce: Experiences of the Child in Early Latency". Published The American Journal of Orthopsychiatry, January 1976.

"Exclusive custody either intensifies the conflict and ill will so command between divorced or divorcing parents or leads to one parent effectively "dropping out".
Dropping out may help clear the court calendar but it also clears one parent out of a child's life. Rather than forcing or encouraging one parent to give up responsibility and care of the child, current research indicates that if our primary concern truly is the best interests of children we should be doing quite the opposite."

Dr. Diane Trombetta and Betsy Lebbos, Ll.D., in an article for the Los Angeles Daily Journal Report.

The above represents conclusions from only a very few studies and articles supporting joint custody which have appeared in the past five years. A bibliography of 130 recent professional articles and books supporting joint custody will be made available upon your request. As Mom's House-Dad's House is able to dig out more references they will be made available to you.

THE EVIDENCE IS CLEAR! WE MUST REMOVE CHILD CUSTODY FROM A WIN/LOSE ALL/ NOTHING PRESUMPTION TO A PRESUMPTION OF CONSENSUS, EQUALITY AND THE PROTECTION OF PARENT-CHILD BONDS.

Compliments of

Mark Lewis
Box 136
Hyder, Alaska 99909

Evaluating the 'success' of joint custody decrees

Repeat court appearances as an indicator of custody stability

One measure of relative success is the frequency of return to court for relitigation of joint custody as compared with sole parent custody.

From:
James A. Cook
10606 Wilkins Ave.
Los Angeles, Calif.
90024

November 14, 1980

Two years of custody decrees evaluated in California analysis

On November 7, 1980, Commissioner John R. Alexander of the West District (Santa Monica) of the Los Angeles County Superior Court summarized the rates of controversy in joint and sole parent custody cases from the Fall of 1978 through September 30, 1980. In the next few months Commissioner Alexander will have completed a more extensive commentary on his statistical review. Meanwhile, this advance 'look' at his preliminary findings will be of special interest to the critics and supporters of joint custody.

Statistics were gleaned from case files and index cards compiled by Commissioner Alexander and fellow jurists in the Santa Monica family law court.

Joint custody awards compared with sole custody decrees

From Fall 1978 to September 30, 1980, 414 custody cases occurred in this court, of which 67% (277 cases) were sole custody awards and 33% (137 cases) were joint custody awards.

Joint custody relitigation one-half as frequent as sole custody

Of those cases, only 16% of the joint custody awards resulted in repeat courtroom appearances (22 of the 137 cases.) However, 31% of the sole custody awards resulted in courtroom reappearances (86 of the 277 cases.)

Results when one parent doesn't agree to joint custody

The gratifyingly high rate of 'stability' within cases where joint custody was decreed regardless of opposition to joint custody by one of the parents is illuminating

17 decrees of joint custody were awarded although parents objected (in 14 of which there was opposition to joint custody by one parent and in 3 of which there were 'defaults' by one parent.)

71% of those cases (12) resulted in no later flareups or courtroom controversy despite the initial objection by one parent to joint custody. 5 (of the 17) resulted in later controversy, 2 of which were settled by agreement, 2 were settled after contested hearing, and 1 is still pending, a notice of appeal having been filed August 26, 1980.

are more stable than arbitrary sole parent custody decrees

Obviously, a preference is for both parents to agree to joint custody,

But, even when both parents don't agree to joint custody there are fewer flareups in unconsented joint custody than in exclusive sole custody decrees. (29% are compared with 31%).

In short, a decree of joint custody even when one parent disagrees appears to be more stabilizing than the arbitrary and decisive decree of sole parent exclusive custody.

- -

Statistics as offered by Commissioner Alexander:

RATES OF CONTROVERSY IN JOINT AND EXCLUSIVE CUSTODY CASES.

Results of study conducted by John R. Alexander, Commissioner, Los Angeles County Superior Court, West (Santa Monica) District, Fall '78-Sept 30,'80.

Table 1 : Summary of Results

1. Total nr of cases studied	414
2. Exclusive custody awards, Total nr:	277
3. Controversies over custody or visitation arising from the 277 exclusive custody awards:	86
4. Coefficient of controversy (86/277)	0.3105
5. Joint custody awards, Total Nr:	137
6. Controversies arising from 137 joint custody awards:	22
7. Coefficient of controversy (22/137)	0.1606

- -

Table 2 : Unconsented joint custody awards follow-up

1. Joint custody awards made after,	
a) Default by one parent	3
b) Opposition by one parent	14
c) Total:	17
2. Cases with no later flareups of controversy	12
3. Ratio of stability (12/17)	0.7059
4. Flareups of later controversy	
a) Settled by agreement	2
b) Settled only after contested hearing	2
c) Still pending (notice of appeal filed, Aug. 26, 1980)	1
d) Total	5
5. Coefficient of controversy (5/17)	0.2941

(Compare with Table 1, line 4: Coefficient in all exclusive custody cases: 0.3105)

Considering number of cases studied, results are believed accurate within 1% plus or minus.

MSG 81-00009728 PRTY 1 03/25/81 14:15:38 ORIG: LF00 IN= 0008 OUT= 0059
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: REP. CLOCKSIN, CHAIRMAN HOUSE HESS AND REPS. CATO, DUNCAN, DEIRNE, MARTIN AND REP. ROGERS(FOR COMMITTEE MEETING ON 3/26/81)

REF: H. B. 210

MESSAGE: I SUPPORT HOUSE BILL 210. THE SHARED CUSTODY AND VISITATION PROVISIONS ARE CERTAINLY NEEDED.

FROM THE FOLLOWING PEOPLE:

KATHY WORSHAM, 1230 BUNNELL ST., 99701 PH 452-3751
KEVIN GRANDY, 102 MAPLE, 99701 PH 479-2758
RITA MAY, BOX 2657, 99707 PH 456-1665
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C. BERGT, S.R. 50620, 99701 PH NO #
JOAN LUNDFELT, BOX 868, 99707 PH 456-1099

MSG 81-00009728 PRTY 1 03/25/81 14:15:38 ORIG: LF00 IN= 0008 OUT= 0059
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 0002

LANCE PARRISH, 536 4TH AVE. 99701 PH 456-4070
DAVID T. BROWN, 209 STEVENS, U OF A, 99701 PH 479-7536
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CATHERINE KNIGHT, 619 MOORE HALL, U OF A. 99701 PH 479-7786
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DENISE DANIELLO. 143 CLARKSON DR. APT. 860. 99701 PH NO #
BLAIR MCCUNE, ESQ. 950 COWLES ST. 997.1 PH NO #
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MICHAEL O. MCCOBWAN. 1416 ALASKA HWY. DELTA JCT 99737 NO PH #
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MSG 81-00009728 PRTY 1 03/25/81 14:15:38 ORIG: LF00 IN= 0008 OUT= 0059
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 0003

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JAMES D. GRANDJEAN

March 19, 1981

Representative Don Clocksin
Alaska State Legislature
Health, Education & Social
Services Committee
Pouch V
Juneau, Alaska 99811

Re: House Bill No. 210

Dear Don:

I have had an opportunity to read and review House Bill No. 210, introduced by Representatives Rogers and Gardiner on February 23, 1981. I have in the past and am currently representing individuals who are strong, stable, and well respected members of the community who, through personal misfortune, are in the process of divorcing a spouse. A very strong concern of each and every client has been the preservation of their relationship with minor children. In particular, I am presently involved in a situation concerning an Alaska Native and a non-Native, with custody of an adopted Native child at issue. I have advised my client of the unwritten predisposition of courts in this state toward maternal custody, and of the courts' general reluctance to approve shared custody arrangements, but have nonetheless been requested to work out a shared custody arrangement. I am willing to encourage shared custody in this situation. I believe that, in a good number of circumstances, shared custody of minor children is far and away in the best interests of the child. This is particularly true where such an arrangement is mandated by the Legislature, and neither party is under the misconception that a court will award an arrangement differently. This type of an arrangement, in my view, would force the parties to realize that they must deal with each other on a continuing basis until their child is of sufficient age to leave the home. As a result of my experience, I strongly urge adoption of House Bill 210, or a bill similar in substance, during this present legislative session.

Sincerely,

Patrick M. Anderson

Patrick M. Anderson

PMA/clb

THE JOINT CUSTODY ASSOCIATION

10606 Wilkins Avenue
Los Angeles, California 90024
(213) 475-5352
James A. Cook
President

A Nonprofit Association concerned with the joint custody of children and related issues of divorce, including research, information dissemination and legal and counseling practices

April 15, 1982

Representative Ramona Barnes
State Capitol
Pouch V
Juneau, Alaska, 99811

Dear Representative Barnes:

As a responsible legislative committee member, you may be particularly concerned with the timeliness and importance of the enclosed material.

The assurance of joint custody for the children of divorce, and the ability to secure frequent and continuing contact with both parents through a less litigious proceedings, is the intent of the enclosed model joint custody statute.

We urge you to introduce the enclosed proposal in your legislature.

The text is drawn primarily from two sources: (1) The existing California and Nevada statutes, which afford two of the Nation's largest bordering states with nearly identical child custody statutes. (2) Amendment improvements dictated by experience in implementation and need for guidance to the courts and that are now in the final stage of legislative consideration by California's "second house".

The decisive vote that the joint custody concept is attracting in state legislatures could reflect a perception of the public's readiness for a statute that makes joint custody a first preference, a "rebuttable presumption," and with the burden of proof that joint custody might not be in the best interests of a particular child upon the individual seeking to isolate a child in exclusive sole parent custody.

The enclosure is a recognizably humane and decent refuge for the children of divorce and for salvaging the conscientious parent's desire to be a responsible participant in the upbringing of their children, regardless of divorce. The proposal, as enclosed, does not seek to pass a value judgment on divorce, but is to protect one of the Nation's most valuable resources for stability despite the instability of divorce: the relationship between children and each parent.

Sincerely,

James A. Cook

Enclosures

Richard D Burns, Chairman

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMO

TO: House HESS Committee Members

FROM: Rep. Don Clocksin

SUBJECT: Domestic Violence

DATE: January 27, 1982

I assume you have read the attached memo from Tam Cook to Rep. Beirne. Since I was a prime author of the Domestic Violence Act as a lobbyist, and sponsor of a bill to strengthen the Act this year, I have a particular interest in attempts to alter the Act.

I agree with the analysis by Ms. Cook.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3820

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M January 20, 1932

SUBJECT: Domestic violence
(Work Order Number 12-2282)

TO: Representative Michael F. Beirne
Chairman, House Health, Education
and Social Services Committee

FROM: Tamara Brandt Cook
Legislative Counsel TBC

Here is a draft of the bill you requested dealing with domestic violence. You have also requested an analysis of the draft.

Sec. 1. AS 09.55.600 allows a person who is subjected to domestic violence to petition a court for injunctive relief restraining the commission of further violence. After a hearing, the court may issue any order necessary for the protection of the petitioner or of a minor child in the care of the petitioner. Specifically, the order can include various itemized provisions, and this section adds a new provision to the list: allowing the court to award visitation of the child. An order is effective for no longer than 40 days. A copy of the order is sent to local law enforcement agencies, and peace officers are required to use every reasonable means to enforce the order (AS 09.55.630).

Sec. 2. The definition of "domestic violence" is amended to include the crimes of endangering the welfare of a minor, criminal nonsupport, failure to permit visitation with a minor, and contributing to the delinquency of a minor. If one of these crimes is being committed in a family situation, the injunctive relief provided for in AS 09.55.600 is available.

Sec. 3. The crime of failure to permit visitation of a minor is violation under existing law with a maximum penalty of a $300 fine. This section increases the maximum penalty

to a $1,000 fine and a term of imprisonment of not more than 90 days by changing the classification of the offense to a class B misdemeanor.

I wish to alert the committee to the fact that I do have some concerns about this bill. Redefining "domestic violence" to include crimes, such as nonsupport and failure to permit visitation, that are not violent in nature seems to me a questionable practice. "Domestic violence" is now defined to includ violent crimes, such as murder, assau t, rape, kidnapping, that require immediate action in extending protection to the victims involved. In this type of situation an injunction serves an important function, but I question whether an injunction is appropriate to use in nonemergency situations. Since the order is only effective for 45 days, it will not do much for an ongoing problem involving failure to permit visitation.

In addition, including the crime of failure to permit visitation in the definition of "domestic violence" and then increasing the penalty for failure to permit visitation in a bill dealing primarily with domestic violence may not successfully avoid constitutional problems under Article II, sec. 13 providing in part, "Every bill shall be confined to one subject. . ." I would recommend that Sec. 3 of this draft be introduced as separate legislation, since it deals with a criminal penalty rather than with domestic violence as such.

TBC:csh

Enclosure

CONCERNING CHILD CUSTODY- A NEW LAW ENCOURAGES SHARED CUSTODY

For children of divorcing parents Alaska has a new custody law which we hope will be used by parents to help protect their children's birthright to continue to have two interested and loving parents after a divorce. The purpose of the new law is to assure children that they will continue to have a frequent, continuing and meaningful relationship with both of their parents after a divorce. It is also designed to encourage parents to forge their own post divorce parenting agreements and settle their conflicts over parenting outside the court setting, with the aid of counselors, ministers or mediators if necessary.

Child psychologists and counselors have found that in many cases the ideal post divorce situation for children is to have meaningful contact with both their parents and to end the conflict over post divorce parenting as quickly and kindly as possible. Children should never be used as a pawn in their parents' marital conflict: for their sake fight over the car. We now know that fathers, as well as mothers are equally important to the growth and development of their children and that artifically absenting a loving parent is destructive to their welfare. For example, it has been found that children relate much better to step parents when they maintain a close relationship with both of their natural parents. The children who fare worst after divorce , and continue to have serious emotional problems into adulthood are usually those children whose custodial parent demands or tricks a child into renouncing the natural love they have for the other parent. The old statuates which automatically awarded custody to one or the other parent even when both were fit were frequently abused and often resulted in children effectively losing their right to a meaningful relationship with one parent. The new statuate reflects findings that often shared custody is in the best interests of the child.

The Law Assures Parents.....

The new law first assures both fit parents that they will continue to have a frequent, meaningful and continuing relationship with their children if they so wish. It assures both parents that they will continue to have access to school, medical and other records if they so wish. It presumes that loving parents will share custody in such a way as is most beneficial to their children. To protect children from a parent who may be unfit, this presumption is rebuttable in court, but using your children to vent hostility towards your ex mate without just cause is discouraged.

What is shared custody.....

Each shared custody agreement should be made to suit the individual child or children. The times in which each parents enjoy phisical custody need not be absolutely equal but should insure each parent of a meaningful contact with their child. If you are interested in sharing time equally there are nine or more variations ranging from 'two-days-two days' for infants and toddlers, to 'school year- summer vacation plus holidays' for older children whose parents may live far apart. There are as many ways to delegate time, responsibility and support as there are divorced families and you are urged to make a creative, satisfactory agreement. It must be remebered that sharing is the key principal.

What if you can't agree.....

You may go to court and have a judge decide for you. Either parent or both parents may ask for shared custody and the court now considers this the preferance. If this request is refused the court must clearly states its reasons and such a decision may be appealed. A parent may also request sole custody if he or she feels it is in the best interests of the child.

The court will probably ask you to try and settle your differances over post-divorce parenting with the aid of professional mediators or counselors.* In most cases you should be able to settle your differances with the help of these professionals. If not, they may be asked to testify in court and great wieght may be placed on their recommendations.

If you still cannot settle your differances you will face an expensive adversary litigation in court and the state will impose an agreement on you as they have done in the past. If you refuse to allow a continuing, meaningful and frequant contact with the other parent for no just cause, you may lose custody altogether. The court may not consider the conduct, marital status, income, social or cultural environment, or lifestyle of either parent unless it is shown that the factor has caused or may cause emotional or phisical injury to the child. The Alaskan court is saying- don't use your children in your war, they have a right to a relationship with both parents if you are both fit.

What are the advantages of shared custody?.....

1. Allows children to maintain a meaningful relationship with both parents after divorce. Allows children to maintain important primary love bonds with both parents.
2. Lessens loyalty conflict (the commonly held view that loyalty conflict would increase with shared custody has been shown by research to be untrue. Loyalty conflict most often springs from absenting one parent).
3. Increases feelings of security , of being important and loved.
4. Feelings of scurity in knowing he/she has two homes, two responsible parents.

* It is not included in the bill but mediation clinics could be set up in the same way as the mental health clinic in Fairbanks where people pay on a sliding scale according to their income.

5. Gives child a more varied life experiance as he/she is able to experiance both parents in full(Documented studies show that the commanly held view that switching homes confuses a child is untrue. Studies show it is precieved by children as no more confusing than switching classrooms. Children precieve the switching as a positive factor and commanly feel sorry for single parent friends).

5. Increases feelings of independance, the obverse of the symbiotic relationship which often occurs in single parent families.

6. Better assures child of adequate sex role identification.

7. Lessens increased conflict due to recidivism in court appearances .

8. Increases liklihood that financial support will continue. Economic security.

9. Cognitive performance in school has been shown to be better in shared custody families than in absent parent families.

lo. diffuses child stealing.

11. Greatly lessens children's painful feelings of grief and mourning (response analgous in children to the death of one parent) which is almost a standard reaction to today's custody procedure. Assures a child that a loved parent won't be forced to go away.

12. Increases respect of children for judicial system which no longer imposes a decree precieved by child as unfair.

13. Teaches children that sharing, and cooperation are more suitable emotions and actions than hostility and uncooperativeness.

14. Gives children the closest possible living experiance to the nuclear family in spite of the parents divorce.

What books and articles may I read about sharing custody?.. .....

BOOKS

Galper, Miriam. Co-Parenting A Sourcebook for the Seperated or Divorced Family. Philadelphia: Running Press, 1978

Roman, Mel, and William Haddad. The Disposable Parent. New York: Hold, Reinhardt and Winston, 1979.

Ricci, Isolina. Mom's House, Dad's House. 1980

Woolley, Persia. The Custody Handbook. New York: Summit Books, 1979

ARTICLES

Abarbanel, Alice Ruth. Joint custody Families: A Case Study Approach. Ph.D. Dissertation, The California School of Professional Psychology, 1977

Abarbanel, Alice Ruth. Joint Custody, What Are We Afraid Of? (Paper presented at annual meeting of American Orthopsychiatric Association, 1978)

Grief, Judith. Fathers, Children and Joint Custody. Amer. J. Orthopsychiat. 49(2), April, 1979

Hetherington, E. Mavis, Martha Cox and Roger Cox. THE Aftermath of Divorce. in Stevens, J.H. Jr. and Marilyn Matthews (eds.), Mother-child and Father-child Relations. Washington, DC 1977.

Shinn, M. Father Abscense and Children's Cognitive Development, Psychology Bull., 85: 295-324, 1978.

Wallerstein, J. and J. Kelley: Children and Parents Eighteen Months after Parental Seperation: Factors Related to Differntial Outcome. NIMH Divorce Conferance, 1978.

Wallerstein, J. Children Who Cope in Spite of Divorce. 1 Family Advocate 2, Summer 1978.

Wallerstein, Judith and Joan Kelley. The Effects of Parental Divorce: Experiances of the Child in Early Latency. Am. J. Orthopsychiat. 46: 20-32, January 1976

Wallerstein, Judith and Joan Kelley. The Effects of Parental Divorce: Experiances of the Preschool Child. Journ. Amer. Acad. Child. Psychiat. 14: 600 , 1975

Wallerstein, Judith and Joan Kelley. California's Children of Divorce- Five Years After the Break-up. Psychology Today January, 1980 67-76

Trombetta, Diane and Betsy Lebbos, Co-Parenting: The Best Custody Solution. June 22, 1979 11-23 The Los Angeles Daily Journel Report

April 13, 1981

In Brief,

ALASKA INTRODUCES CUSTODY 'SHARING' LEGISLATION

CONCEPTS WORTHY OF STUDY, EMULATION

Alaska House Bill No 210, introduced by Representative Brian Rogers of Fairbanks and Representative Terry Gardiner, former House Speaker of Ketchikan is based primarily on the initial California example but improves with many worthy priorities and concepts.

(A follower of our efforts writes, "If it passes then Alaska can take its place along side those other states who are actually giving some consideration to the best interests of the children.")

In abbreviated form, following are the major provisions, which have yet to be evaluated by the Alaska legislature.

LEGISLATIVE INTENT

"...it is generally desirable to assure a minor child frequent and continuing contact with both parents after the parents have separated..."

"...it is the intent of the legislature that both parents have the opportunity to guide and nurture their child and to meet the needs of the child on an equal footing beyond the consideration of support or actual custody."

EQUALITY

ENCOURAGE OUTSIDE COURT

"...it is in the best interests of a child to encourage parents to implement their own child care agreements outside of the court setting."

BEST INTERESTS

"In determining the best interests of the child the court shall consider

(1) the physical, emotional, mental, religious, and social needs of the child;
(2) the capability and desires of each parent to meet these needs;
(3) the child's preference if...of sufficient age...
(4) the love and affection existing between the child and each parent;
(5) the length of time the child has lived in a stable... environment...
(6) the desirability of offering the child a variety of life experiences;
(7) the desire and ability of each parent to allow...relationship ...(with) other parent."

NO NOS

"...the court may not consider the conduct, marital status, income, social or cultural environment, or life style of either parent unless...may cause...injury..."

RECORDS ACCESS "...parent...not...granted custody may have access to...records..."

DEFINITION "...'shared custody' means an award of custody...to both parents and includes...physical custody which assures...contact with each parent."

Special note: Alaska proposal does not interject the mischievous subterfuge of merely joint legal custody, as compared with the genuine sharing of joint physical custody.

The Alaska proposal is good, BUT:

The Alaska proposal fails to imply that the court could decree shared custody and thereupon the parents must create a plan for sharing.

The "Seven items the court shall consider" may be ill advised within a statute. Why?:

We are generally hesitant about the questionable constitutionality of itemizations that imply qualifications to justify joint custody.

While worthy of consideration with a mediator and by each parent, as an integral part of the law considerations dealing with "home environment," "community," "proximity," "travel," etc, may be unconstitutional intrusions by the court into issues best left to the parents...especially since the law has no right to impose such qualifications upon conventionally married parentsas a qualification for becoming and continuing as a parent.

Important: Also, this inclusion sets the stage, with itemization, of issues wherein an uncooperative parent could thwart and thereby defeat joint custody for the child and for th otherwise cooperative alternate parent by moving away, ac ging the other's environment, objecting to travel, etc.

THE JOINT CUSTODY ASSOCIATION
10606 Wilkins Avenue
Los Angeles California 90024
(213) 475-5352
James A. Cook
President.

A Nonprofit Association concerned with the joint custody of children and related issues of divorce including research, information dissemination and legal and counseling practices.

Jan. 10,'80

Parents select their preferences

Convenient format for submission to parents:

1. Before court appearance so that decrees reflect preferences of parents,

or

2. Following decree that joint custody will prevail and parents must thereupon submit a joint custody plan.

Joint physical custody time allocation

Nine variations available

(See "Initiating Joint Custody Planning" questionnaire for related issues)

Each parent: Select & rank three choices

___ 1. Freedom of movement between two homes. Timing decided by child, as long as net residence effect allocates an approximately equivalent period of time to each parent. (Appeals to older children as a solution.)

___ 2. 3½ days -- 3½ days
   (a) Split weekend
   (or,b) Complete weekend, but alternating between parents.
   (c) Special vacation period accorded each parent, in addition.
   (Appeals to "fairness" appreciated by early grade school children.)

___ 3. 1 week -- 1 week
   (a) Special vacation period accorded each parent, in addition.
   (Applicable to infants and junior & senior high years.)

___ 4. 2 weeks -- 2 weeks
   (a) With 'overnights' at the alternate parents.
   (b) Special vacation period accorded each parent, in addition.
   (Applicable to infants and junior & senior high years.)

___ 5. 1 month -- 1 month
   (a) With at least one exchange weekend plus 'overnights.'
   (Applicable to junior & senior high years.)

___ 6. 2 or 3 months -- 2 or 3 months
   (a) With exchange weekends plus 'overnights.'
   (Applicable to situations of moderate geographic distance.)

7. School year -- Entire summer vacation
   (a) School year 'parent' offers every other weekend, plus exchange & alternating holidays, & 'overnights' during school year.
   (b) Summer vacation 'parent' offers exchange of one weekend a month during summer.

(Fewer weekend exchanges accorded during summer because parent having child during school year including alternating weekends accumulates more days/time with child.)
(Applicable to college age, senior high school and geographically distant parents.)

8. Child remains in original home.
   (a) Parents move in and out alternatively on schedule arranged by parents.

9. Workday week -- Weekends
   (a) Modified to accommodate substantial vacation periods.

(If one parent is employed during the week and the other is not, a practical division of available time may encourage the #9 option although #9 tends to be the farthest removed from the spirit of joint custody and merely approximates the former custody/visitation arrangements decreed prior to the joint custody statute.)

Note: Residence within the same school district is not necessary to make joint custody operable. Availability of transportation is a consideration.

Furthermore, as an example, a California family having joint custody, wherein the parents live 180 miles apart, are implementing a joint custody arrangement whereby the child in upper grade school years alternates two weeks with one parent in one school and two weeks with the other parent in another school. The child has improved and accommodated academically and the statewide school curriculum is compatible. Originally one parent opposed joint custody, there was protracted conflict before joint custody was achieved, and the case has demonstrated that there need not necessarily be wholehearted and enthusiatic agreement to joint custody to make joint custody work.

Regardless of whether a child is from a conventional or a separated family, school children are already exposed to alternating teachers, alternating classrooms, yearly transfer to new grades, movement back and forth between home and school, and encounters with different friends in different classrooms. Therefore, the addition of a second home or school is not unlike that already experienced by children from nuclear families with access to grandparents, etc.

NATIONAL ORGANIZATION FOR WOMEN

FAIRBANKS CHAPTER, P.O. BOX 82254, FAIRBANKS, ALASKA 997 08

Representative Mike Bierne
Chairman, HESS Committee
PO Box 4-1539
Anchorage, Alaska 99509

Re: House Bill 210 Joint Custody for Children

Dear Representative Bierne:

The Fairbanks Chapter of the National Organization for Women supports House Bill 210 because it is consistent with the statement that "equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

House Bill 210 is also consistent with the intent of current Alaska Statutes governing the granting of custody of minor children because it provides a positive framework so that after a marriage is terminated, the children can maintain "an open and loving frequent relationship with (both parents)" (Sec. 09.55.205, Judgment for Custody, paragraph 6).

In most states, including Alaska, a form of no-fault divorce exists, in which it is not necessary for one parent to decimate the other in the public record, which is to no one's advantage. Joint or shared custody for children is the companion to that process because it removes the stigma of sole custody and will tend to prevent bitter, acrimonious and hostile custody battles, which are to no one's best interest, least of all the children who are defenseless in a process that can have far reaching consequences to their future lives, if handled improperly.

The preference for joint custody is an important concept because it provides a positive basis for each parent to continue their parenting responsibility.

If a joint custody relationship is not desired after a marriage is terminated, the second step in the preference for award process, provides for granting sole custody in a traditional fashion "to the parent determined by the court to be most likely to allow the child to have frequent and continuing contact with the parent not granted custody."

House Bill 210 is consistent with the following statement by Ms. Karen DeCrow, Past President, National Organization for Women (1974-1977) on August 28, 1980:

NATIONAL ORGANIZATION FOR WOMEN

FAIRBANKS CHAPTER, P.O. BOX 82254 FAIRBANKS, ALASKA 99708

"Joint custody is definitely the custody arrangement of the future.

The practice of nearly always awarding custody of children to the mother reflects negatively on women who aren't awarded custody; the public automatically thinks they are unfit to care for the children."

House Bill 210 is good legislation because it removes bias, is equal, and facilitates preservation of the child's needs for contact with both parents; it reduces use of the courtroom by one parent to destroy the other parent, to the detriment of the child's best interests.

We urge you and the committee to vote favorably on House Bill 210 so that more children in this state can be allowed to have an "open and loving frequent relationship" with both their parents after a marriage is terminated.

Sincerely yours,

Valerie M. Therrien

Valerie M. Therrien
Vice-President

cc: Representative Terry Martin
Representative Bette Cato
Representative Sally Smith
Representative Hugh Malone
Senate Judiciary Committee
House Judiciary Committee
Senate HESS Committee

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

November 3, 1981

Ms. Valerie M. Therrien
Vice-President
Fairbanks Chapter
National Organization for Women
P.O. Box 82254
Fairbanks, Alaska 99708

Dear Ms. Therrien:

Thank you for your letter in support of HB 210 -- Joint Custody for Children. The statement byMs. DeCrow illuminated an angle of the problem which has not been sufficiently considered, I feel.

In case you were not aware, the House HESS Committee will conduct public hearings in Anchorage from 1 - 5 pm and 7 - 9 pm on November 20th (Friday) in regards to joint custody. You might encourage NOW members to testify. The teleconference system will allow Fairbanks residents to testify from 3:00 - 5:00 pm at the Fairbanks Legislative Information Office.

Thanks again for writing. We appreciate your input.

Sincerely,

Mike

Mike Beirne
State Representative

MB/bw

Have you made a deliberate decision for sole custody, to the exclusion of joint custody?

CONSEQUENCES OF SOLE CUSTODY

Possible legacy in view of:
1. Availability of joint custody.
2. Alternate but excluded parent proposing joint custody.
3. Awareness by children of joint custody.

Sole custody contributes to

<u>Uneasiness</u> among young children,
<u>Skepticism</u> among older children,
<u>Reanalysis</u> as adults about a sole custody childhood.

For the parent imposing a decision for sole custody, the following is worth considering:

Recognition and reactions (by the child):

ARTIFICIAL RESTRAINTS	Artificially kept away from the non-custodial parent's residence for any meaningful residence or period of time.
COMPARISONS	Comparative situation, in relation to that of families or lifestyle of peers.
IDEALIZED	Tends to make an ideal, or saint, of the ostracized parent and stimulates sympathetic consideration for the noncustodial parent.
'CRAZY-MAKING'	'Crazy-making' insofar as 'words of sweetness' not being compatible with an ostracitzation and isolation of the non-custodial parent. - Words and actions don't correlate; leads to skepticism about such a parent.
RESENTMENT	Arbitrariness or rigidity tend to characterize the covetous custodial parent. Adolescent revolt is heightened. Natural inclinations of independence and teen-age revolt are stimulated by the existence of an obvious reason to resent the covetous sole custodian.
IDENTITY-SEARCH	Lifelong search for identity, speculation about the missin portion of ones parental self.
PROMISCUITY & LONGING	Promiscuity and sexual activity is comparatively higher an earlier among children of non-nuclear families, and presumably among those with a close, consistent, and unobstrcuted contact with the alternate parent.
VISITATION RESENTMENT	Scheduled visitation leads to resentment. Disdain for a control agreement conceived by one parent for imposition upon the other without consideration of the child's independent preferances.

BLAME	Feelings of loss and abandonment shifted to blame of the custodial parent for having induced or contributed to the problem.
DISTURBANCE	Disturbed relations with others, particularly in close relations with the opposite sex, which may lead to a need for professional analysis later-on that justifies a resentment of the sole custodian.
LAW & JUSTICE DISDAIN	Forces or induces the sole custodian parent to place the responsibility, or blame, or wisdom of the decision on the judge or court....thereby inducing skepticism in the child about the equitability or justice of the court system.
MANIPULATION OF POWER	Among self-willed children growing to adulthood, serves as a demonstration that manipulation of the court system can be used to enhance or impose power, to the disadvantage of otherwise blameless or naive people.
REJUSTIFICATION	Requires a continual rejustification, by the sole custodian to the child about the unworthiness of the excluded parent to participate in joint custody. If the justifications being given are not borne-out by the conduct of the excluded parent, increased skepticism of the custodial parent may result.
DEPENDENCY	Induces a fawning, catering, 'feeding' and 'spoiling' by the sole custodian of the child in order to cultivate the child's dependency on that custodian.
UNWARRENTED EXPECTATIONS	Could lead to such a unilateral or selfish adulthood that reminders will be forthcoming about the failings of the sole custodian parent and the influences that spawned unwarreated expectation in adulthood.
RAGE	Cultivates rage which, because of the powerlessness of childhood, is constrained until adulthood triggers or unleashes a hidden recognition of the rage. Resentment of a controlling sole custodian is expressed against someone else who 'reminds' the former child of childhood rage-resentments.

Reactions by children to sole parent custody

1. Feelings of loss and abandonment.
2. Attachment and separation anxiety.
3. Loyalty conflicts, particularly among latency-age children (from 5 to puberty).
4. Strained interactions with custodial and non-custodial parents.
5. Disturbance in children's play and social relations.
6. Disturbance in cognitive performance and changes in IQ.
7. COnfusion in sex role identification.

Problems for the individual parent in sole custody situations

1. Loss of familiar activities and habit systems.
2. Loss and separation anxiety.
3. Role loss, particularly among non-custodial parents.
4. Decline in ability to parent.
5. Physical symptoms related to separation and loss of parental role.
6. Practical problems, such as economic instability.
7. Lowered self-concept.
   Fathers: Greater initial changes, rootlessness.
   Mothers: Feeling physically unattractive.
8. Declining feelings of competence.
9. Loneliness.

District Court

State of Alaska

FIRST JUDICIAL DISTRICT
P. O. BOX 869
WRANGELL, ALASKA
99929

ROBIN L. TAYLOR, Judge

May 3, 1979

Ms. Laura Miller and
Ms. Nancy Fischer

c/o:
Family Law Reform and
Justice Council of Alaska
Rudy Johnson, Coordinator
P.O. Box 4-1646
Anchorage, Alaska 99504

Dear Ms. Miller and Ms. Fischer:

I am a District Court Judge located in Wrangell, Alaska and have been on the bench for approximately 2½ years. Prior to my judicial duties I was actively involved in the private practice of law in Ketchikan, Alaska for 8½ years. During my years as a lawyer I dealt almost daily with divorce problems of one kind or another. Of all the problems faced in divorce work, none was so heart wrenching or had such tragic consequences as disputes over child custody.

In America we use 12 man juries and open the doors of our appellate process for a murderer who, if convicted, may receive a life sentence. In most states this means that with good behavior he will be out on the streets in 7½ years. Yet we daily allow judges, without the advice or assistance of juries, sentence innocent children to 18 years custody with one parent and blandly skip over the child's rights of access to the non-custodial parent with such non-enforceable clauses as "reasonable rights of visitation", etc.

Those children are often sentenced to a fate far worse than the murderer will receive and for a much longer term. The convict gets 3 meals a day, clothing and a roof over his head - to say nothing of medical, dental, optical and visitation. Only recently have we begun to appoint attorneys to represent the children in contested domestic matters. Only recently, and very slowly I might add, are the courts paying anything more than lip service to the term "best interest of the child".

The system usually works this way. Parents in mid-20's, and children under 5 years of age. Parents want divorce and each relies upon advice from friends, etc. If both husband and wife agree on the terms they file their own papers and the courts rubber stamp their ignorance of the law by granting the divorce because they have it all worked out. Only when they can't agree does the attorney get involved. Prior to this the husband has been told by his friends that he can't get the kids unless he can prove the wife unfit. The wife has been told that she would be a fool to give up the kids because of child support, tax deduction and society's suspicions of a divorced woman who "lost" her children.

The very phrases I've used above demonstrate the problem. The words always used by people discussing these matters are as follows: Wife=she lost her kids - the court took her children away from her - she had to give up her kids - etc. Husband=they just say "oh, he's divorced" and everyone assumes he didn't receive custody - if he did, the words are always spoken in exclamation or with the inuendo that his wife must have really been bad - why do you say that? "Well, they went to court and he got the kids!"

The typical situation I mentioned above usually results in the husband being told he can't get the kids. If he tries he will lose and it will cost him a fortune. Furthermore, he knows from what he has seen or heard happen to so many other divorced fathers that any semblance of father-child relationship will be shattered by the capricious whim of a vindictive ex-wife who will do anything possible to frustrate his exercise of those reasonable rights of visitation. I have personally seen each of the following occur and they are but a sample of the 8½ years I spent working on domestic matters.

1) Wife leaves town with children or moves in with relatives to prevent father from seeing the kids for the one week per year he was allowed under the old decree. This is after the father has given one month's notice of the visit and flown over 1,000 miles to see them. Husband has paid child support faithfully and is current.

2) Wife destroys all letters to children, gifts, etc. She has an unlisted phone number. She refuses to disclose address of residence.

3) Children are sick so doctor and dental appointments, etc., are scheduled to make visitation impossible or impractical at best.

4) Wife refuses to send children to father even though ordered to by the court and the father has paid their round trip fare. She demands $6,000.00 bond in cash before allowing visitation.

Knowing of these situations the young father who loves his children (and I haven't seen any evidence that indicates that the sex of the parent is in any way an indicator of parental love) bites the bullet and goes along with the advice of his friends and usually the advice and experience of his attorney which results in the same course

of conduct. He watches the ex-wife walk from the court room with a piece of paper that says he may only see his kids if his ex-wife lets him.

Mr. Rudy Johnson is a living example of the result that this system or ours creates. His case is only unique in two respects. First, he had the entire weight of a religious organization hiding his wife and children from him and providing his wife with unlimited financial support for legal assistance. It is also unique in that Mr. Johnson loved his children enough to take on the whole system and fight in the only way left to him - he broke the law. However, before he resorted to the extreme action of physically taking his children, he had spent years in litigation and a small fortune in attorney fees. The end result is that she has custody and he has specific enforceable visitation with his children. This is after 4 or 5 years of fighting the system, being hunted by the law as a child stealing parent and exceptional personal sacrifices on his part. I personally admire his stamina and dedication to be willing at this point to go on with the fight so that the future will hopefully provide better alternatives for other men and women than he was forced to face.

Don't misinterpret my comments as approval of his rash act of taking the children in violation of a standing court order. Nor should you be led by these remarks to believe that I'm critical of the five judges who had to render the difficult decisions posed by the Johnson case. They were only doing what they believed society and the law said should be done.

How many people like Rudy Johnson will have to throw their bodies into the machinery before the system changes? Though I don't know what the make-up of your conference or panel is, I would hope that there are several Rudy Johnsons sitting on that board. If they are not included and listened to, you will only perpetuate a dogma that daily wreaks havoc all across this nation.

When you listen to Mr. Johnson - and I sincerely hope you will - please remember that he is not just speaking for himself. He is saying things that have and will happen to untold numbers of other people unless change occurs.

I don't see this conference as a mere sounding board for agrieved non-custodial parents and their rights. Though these are important issues, they are not the crux of the problem. The real issue before you is "what are the rights of the child and how will those rights be protected?" In this year of the child I hope that the panel will concentrate on their rights to free access to both parents and to maintaining the parent-child relationship of the non-custodial parent.

Most divorced fathers see less of their children than does the summer camp counselor or their babysitter. The child has a right to better treatment than that and so does the non-custodial parent. Small wonder that the non-custodial parent refuses to pay child support or resorts to "child stealing". It's the only way left to strike back at a system that won't listen to them. Such conduct will continue until we all stop and listen.

I hope you will listen to Rudy Johnson. He's been there.

Sincerely yours,

Robin L. Taylor

Robin L. Taylor

TESTIMONY OF TAMMI HAMMER BEFORE THE LEGISLATIVE TELECONFERENCE HEARINGS

April 22, 1981

I'm Tammi Hammer and I'm 22 years old. I'm representing Equal Rights for Children of Divorce which is a coalition of Equal Rights for Fathers of Alaska.

But first I want to make it clear that no one is forcing me to do this. I volunteered to do it myself. I think that the Bill for joint custody should be passed. Children of divorce always get caught in the middle no matter what happens and we want to stop this by having joint custody.

Joint custody doesn't mean that each parent has 50-50 time with the child. But it means that each parent would be able to raise the child. For example, Religion is something that almost every parent argues about. But if one parent has permanent custody of the child then that parent has the only say so. But with joint custody both real parents can talk about it and decide together.

This house Bill can help not only my situation but a lot of others too. You don't know what it's like only being able to see one parent. But if this Bill passes we will be able to see both parents. The judges don't take the kids seriously when they say they want to live with a certain parent. The judges take it upon themselves to decide. Either that or the kids just say what the judges want to hear. The judges usually treat children like an award or a piece of property that they can give away like a prize to one parent.

Also if this Bill is passed, there will be less arguing from the parents side and less suffering from the kids. Most children in divorce cases are being pushed and pulled by both parents at times. It seems as though judges don't want to hear our point of view about things like divorce. Most judges think we're irresponsible and too young to know anything. We understand divorce and know it's hard for the parents.

One thing we don't understand is why fathers don't get custody as much as mothers do. Child support payments should not be considered as far as visitation goes because it makes me feel like one parent is having to buy me.

Thank you.

TESTIMONY OF AMBER WILLIAMS BEFORE THE LEGISLATIVE TELECONFERENCE HEARINGS

APRIL 22, 1981

I'm Amber Williams and I'm 13 years old representing the Coalition of Equal Rights for Children of Divorce. And I'm for the joint custody Bill. I feel that I have a right for seeing my parents equally and not have to be put in the middle because I don't like being put in the middle of my parent's problems.

I want this Bill so that I won't have to get caught in the middle of my parent's problems. I'm really for this Bill because I love both the same and I'd like to see them both equally just as a lot of other children out there would like. I'm talking for myself & a lot of other children. I know that a few children may disagree with this bill, but I feel that there are more children that would go for the Bill instead of against it.

I feel that the judges that are settling divorce cases can't have the right understanding of our best needs if the Bill isn't passed because sometimes like when we go to court we get really nervous and can't say what we want because one parent has told us one things and the other parent has told us another. And if the Bill were passed, we wouldn't even have to go to court.

If HB-210 had been in effect before my parents had gotten divorced I feel that I wouldn't have had to go through so much time of suffering like I had. I also feel that there would be less arguing if HB-210 were passed because there would be more rights for each parent. And also I feel that we shouldn't be pushed and pulled around like a piece of property.

I think that parents should be encouraged to work with their own problems outside of the courtroom also because they should be able to cope with their own problems.

One thing I really think is very important is that the parent that doesn't have physical custody gets maximum visitation rights. And also I think that joint custody would help the parents to have the same privileges to medical and school records because each parent should have a right to know if their child is well or ill and to know how they are doing in school.

Now if I haven't got this across to everybody, joint custody means that both

parents have the right to be parents and are encouraged to the same no matter what happens or who they live with.

TESTIMONY OF LAISHE' STREBEL BEFORE THE LEGISLATIVE TELECONFERENCE HEARINGS

APRIL 22, 1981

I'm Laisne' Strebel. I am 15 years old. I am speaking for Equal Rights for Children of Divorce which is a Coalition of Equal Rights for Fathers of Alaska.

I feel that this bill should be passed because children should be allowed to experience and grow up with both parents. It took both parents to have a child and it should take both parents to raise and love the child. If this Bill is passed, children will be able to respect and love the people who gave that person his or her life. It isn't right for one parent to take the children and not allow the other parent to see them.

Children need to have an open relationship with their parents. It is hard for the children to grow up when just the mother or just the father is around because the child cannot identify to a parent when they are not there.

The difference between physical and joint custody as outlined in the Bill, provides that both parents are encouraged and have the right to be parents. You don't divorce your parents no matter what happens or who you live with they are still your parents.

Parents should settle their arguments outside of the courtroom because it breaks the child's emotional status. The courtroom only hurts the parents and the children.

The children shouldn't have to choose between one parent or the other because it puts pressure on the child. If he loves both parents he shouldn't be put to a test to prove how much he loves them.

Both parents should be allowed to see the child's school and medical records. When one parent has custody, then that parent is the only one who takes that child to the doctor or to school activities. The other parent should also be allowed to share that with the child.

ERCD

HB 210

Equal Rights for Children of Divorce

To all members of the Ak. Leg.
We come to you as a Coalition of Children of divorce.
We think that joint custody between parents and children should be passed.
We feel that the children should be raised with both parents, and should be treated equally by both parents.
We feel that both parents have say over what happens to the child. We also feel that ... Should'nt always get the children. A child also has a right to say what he/she feels! Children should be present in court while during divorce cases.
But the children should never get caught in the middle of the parents fights (abuse, and threat ...).
we totally support HB. 210

T.W T.H. Jamine Hammack 13 Laurie Stuckel 15
Katrina Stuckel 11
Celia B. onzalez 9
Raul Gonzalez 6
13
8
Laurie Celarquist 12
Sonja Almquist 10

SECTIONAL ANALYSIS: CS HB 210 "An Act Relating to Child Custody"

CS HB 210 parallels HB 210 except for the following changes:

Sec. 3: Sec. 25.20.060 "Custody of the Child" (c) is added, stating that shared custody may be awarded if the court determines it is "in the best interest of the child".

Sec. 4

Sec. 25.20.070 (Major difference between HB 210 and its CS) "Denial of Shared Custody". Rather than granting shared custody legal rebuttable presumption status, the court must state on the record why he denied any request for shared custody.

Sec. 25.20.090 Section is deleted. Subparts (1), (2), and (3) are unnecessary. Procedure for awarding shared custody provided in CS Sec. 25.20.060. (b) is unnecessary because it is treated in CS 25.20.070. (c) is treated in CS 25.20.090. (d) is treated in 25.20.080.

CS Sec. 25.20.090 Gives the court power to modify visitation awards under this section as well as custody. Also, includes the requirements for the court to record reasons for modifying awards as well as custody.

CS Sc. 25.20.100

Sec. 25.20.110 (HB 210) "Preference of the child" is meant to be CS Sec. 25.20.100. Leg. Council omitted this from their final draft.

CS Sec. 25.20.100 is identical to HB 25.20.120.

HB 210 25.20.130 "Preferences on Award" is deleted.

CS Sec. 25.20.120 is identical to HB 210 Sec. 25.20.140.

CS Sec. 25.20.130 "Confidentiality" replaces HB 210 Sec. 25.20.160 "Pleadings"

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - FIRST SESSION
A BILL

For an Act entitled: "An Act relating to the enforcement of child support."

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

* Section 1. AS 25.25.010 (1), (6) and (11) are amended to read:

(1) "state" includes the State of Alaska and a state, territory or possession of the United States and the District of Columbia and foreign countries in which this or a substantially similar reciprocal law has been enacted;

(6) "duty of support" includes a duty of support imposed or imposable by law, or by a court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance or otherwise, and includes the duty to pay arrearages of support past due and unpaid; plus overdue payment fees and interest.

(11) "interest" means post judgment interest accrued on a judgment of arrears, and the rate shall be 10 percent or the rate established according to regulations adopted by the department whichever is higher.

* Section 2. AS 25.25.258 is amended by adding a new sub-section to read:

(d) Registration of a foreign support order does not subject the obligee to the general jurisdiction of the courts of this state unless the obligee is a resident of this state. The jurisdiction of the superior court over a non-resident obligee and the duty of the child support enforcement agency to represent any obligee are confined to those matters identified in (a) and (c) of this section, and collateral matters such as custody and visitation may not be addressed in proceedings under this chapter.

* Section 3. AS 47.23.020 (2)(A) and (C) are amended to read:

(A) Schedules for determining the amount an obligor is liable to contribute toward the support of a minor child (AN OBLIGEE) under this chapter and under Title IV-D, Social Security Act; and

(C) a uniform schedule of fees which may be charged to the obligor upon notice if the child support payments are 10 or more days overdue or if payment is made by a check backed by insufficient funds. Notice means at a minimum mailing by first class mail a copy of the document or documents to the last known address of the obligor available to the agency.

* Section 4. AS 47.23.045 is amended to read:

Section 47.23.045. AGENCY RIGHT TO INTERVENE (DETERMINATION OF SUPPORT OBLIGATIONS) The agency may appear in an action seeking an award of support in behalf of a child owed a duty of support, and may also appear in an action seeking modification of a support order, decree or judgment already entered. Action under this section may be undertaken upon application of an obligee, or at the agency's own discretion if the obligor is liable to the state under Sec. 120(a) or (b) of this chapter.

* Section 5. AS 47.23 is amended by adding new sections to read:

Sec. 47.23.048. STANDARDS OF PROOF FOR MODIFICATIONS. In any proceeding to modify the obligation to pay future support, a change of 20 percent or more in the consumer price index since the establishment or subsequent modification of judicial or administrative support order for future support payments shall be prima facie evidence of a change in circumstances.

Sec. 47.23.092. REDUCING ARREARS TO JUDGMENT. The agency may submit to the superior court, with notice to the obligor, a certified statement of arrears. Notice means at a minimum mailing by first class mail a copy of the document or documents to the last known address of the obligor available to the agency. The court shall treat the certified statement of arrears as a motion for judgment on the pleadings under the Civil Rules of Court. After due consideration, the court may enter judgment for the amount of support which is due and owing, including overdue payment fees.

* Section 6. AS 47.23.100 is amended to read:

Sec. 47.23.100. ALL PERSONS MAY USE THE AGENCY. The agency shall provide aid to any person due child support under the laws of this state upon application. If the obligee is indigent or otherwise unable to pay for these services, the agency shall act without charge to the obligee. The agency may impose fees for services provided under this chapter. If the agency decides to establish fees for services (IF THE AGENCY DETERMINES THAT THE OBLIGEE IS FINANCIALLY ABLE TO PAY) costs shall be assessed according to regulations adopted by the department and be paid into the fund established in Sec. 30 of this chapter.

* Section 7. AS 47.23.110(3) and (4) are amended to read:

(3) "duty of support" includes a duty of child support imposed or imposable by law, by a court order, decree or judgment, or by finding or decision rendered under this chapter whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance, or otherwise, and includes the duty to pay arrearages of support past due and unpaid, plus overdue payment fees and interest;

(4) "obligee" means the custodial parent or person who has physical custody and responsibility for the minor child to whom a duty of support is owed; (A PERSON TO WHOM A DUTY OF SUPPORT IS OWED;)

* Section 8. AS 47.23.110 is amended by adding new paragraphs to read:

(7) "consumer price index" means the All Urban Consumer Price Index (CPIU) as compiled by the United States Department of Labor, Bureau of Labor Statistics, for Anchorage, Alaska or, if the obligor and obligee live in the same judicial district the index for a municipality within a judicial district if the United States Department of Labor compiles an index.

(8) "interest" means post judgment interest accrued on a judgment of arrears, and the rate shall be 10 percent or the rate established according to regulations adopted by the department whichever is higher.

* Section 9. AS 47.23.130 is amended to read:

If the obligor is liable to the state und r AS 47.23.120(a) or (b), the state is subrogated to the rights of the obligee to either bring an action seeking a support order or to proceed under AS 47.23.160 - 47.23.270 to establish and enforce a duty of support and further to enforce by execution, in accordance with AS 47.23.230 - 47.23.270 or otherwise, any support order already entered in favor of the obligee. The recovery of any amount for which the obligor is liable in excess of (, UP TO) the amount (FOR WHICH THE OBLIGOR IS LIABLE TO THE STATE UNDER AS 47.23.120 (a) AND (b)) of the total assistance granted under AS 47.25.310 - 47.25.420 shall be given to obligee.

* Section 10. AS 47.23.150 is amended by adding a new sub-section to read:

(c) refusal by the obligor to accept the notice shall be considered service as of the time of refusal.

* Section 11. AS 47.23.160 (b) is amended to read:

(b) The notice and finding of financial responsibility served under (a) of this section shall state (1) the sum or periodic payments for which the alleged obligor is found to be responsible, calculated by taking into consideration the need of the minor child, (THE ALLEGED OBLIGEE) the alleged obligor's liability to the state under Sec. 130 of this chapter, if any, and his duty of support under the law;

(2) the name of the alleged obligee and minor child; (HIS CUSTODIAN)

(3) that the alleged obligor may appear and show cause in a hearing held by the agency why the finding is incorrect, should not be finally ordered, and should be modified or rescinded, because (a) no duty of support is owed, or (B) the amount of support found to be owed is incorrect;

(4) that if the person served with the notice and finding of financial responsibility does not request a hearing within 30 days, the property of the person will be subject to exe tion in accordance with Sec. 230 - 270 of this chapter in the amounts stated in the finding without further notice or hearing.

* Section 12. AS 47.23.160 is amended by adding a new sub-section to read:

(c) Refusal by the obligor to accept the notice shall be considered service as of the time of refusal.

* Section 13. AS 47.23.170(e) and (f) are amended to read:

(e) The hearing officer shall consider the following in making his determination under (d) of this section:

(1) the needs of the minor child, (ALLEGED OBLIGEE) disregarding the income or assets (OF THE CUSTODIAN) of the alleged obligee;

(2) the amount of the alleged obligor's liability to the state under Sec. 125 of this chapter if any;

(3) the intent of the legislature that children be supported as much as possible by their natural parents;

(4) the ability of the alleged obligor to pay.

(f) If the alleged obligor requesting the hearing fails to appear at the hearing, the hearing officer shall enter a decision declaring the property of the alleged obligor subject to execution in accordance with section 230 - 270 of this chapter in the amounts stated in the notice and finding (FILING) of financial responsibility.

* Section 14. AS 47.23 is amended by adding a new section to read:

Sec. AS 47.23.182 RATIFICATION BY COURT OF ADMINISTRATIVE ORDERS. An administrative support order issued under Secs. 160(4), 170(f) and 180(a) of this chapter may be forwarded to the superior court. Unless a notice of appeal under AS 47.23.210 is filed within thirty (30) days of the administrative support order the court may enter an order confirming the administrative support order.

* Section 15. AS 47.23.190(a) and (c) are amended to read:

(a) Unless a support order has been entered, the obligor, or the obligee, (OR HIS CUSTODIAN) may petition the agency or its designee for a modification of the finding or decision of responsibility previously entered with regard to future periodic support payments.

(c) If a hearing is granted, the agency shall serve a notice of hearing together with a copy of the petition and affidavits submitted on the obligee (OR HIS CUSTODIAN) and the obligor personally or by registered, certified, or insured mail, return receipt requested for restricted delivery only to the person to whom the notice is directed or to the person authorized under federal regulations to receive his restricted delivery mail.

* Section 16. AS 47.23.250 is amended by changing sub-section designators as follows:

Present sub-sections F, G, H, & I shall be changed to sub-sections H, I, J, & K, respectively.

* Section 17. AS 47.23.250 is amended by adding new sub-sections to read:

(f) A person, political subdivision, or department of the state which regularly incurs additional indebtedness to the obligor shall continue to withhold and deliver money as it comes due and owing until the liability of the obligor under AS 47.23.150 has been satisfied.

(g) An order to withhold and deliver issued to the Department of Revenue will be effective within one (1) day after service and effective throughout that calendar year. It shall be sufficient to subject any tax refund or other disbursements due to be issued to the obligor in that year to the provisions of this section even though the tax refund or disbursement may be issued more than thirty (30) days after the order.

SECTIONAL ANALYSIS: CS HB 210 "An Act Relating to Child Custody"

CS HB 210 parallels HB 210 except for the following changes:

Sec. 3: Sec. 25.20.060 "Custody of the Child" (c) is added, stating that shared custody may be awarded if the court determines it is "in the best interest of the child".

Sec. 4

Sec. 25.20.070 (Major difference between HB 210 and its CS) "Denial of Shared Custody". Rather than granting shared custody legal rebuttable presumption status, the court must state on the record why he denied any request for shared custody.

Sec. 25.20.090 Section is deleted. Subparts (1), (2), and (3) are unnecessary. Procedure for awarding shared custody provided in CS Sec. 25.20.060. (b) is unnecessary because it is treated in CS 25.20.070. (c) is treated in CS 25.20.090. (d) is treated in 25.20.080.

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CS Sec. 25.20.130 "Confidentiality" replaces HB 210 Sec. 25.20.160 "Pleadings"

Introduced: 2/23/81
Referred: Health,Education &
Social Services and Judiciary

IN THE HOUSE BY ROGERS AND GARDINER

HOUSE BILL NO. 210

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

Make provisions for grandparents rights -

For an Act entitled: "An Act relating to child custody."

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

* Section 1. LEGISLATIVE INTENT. (a) The legislature finds that it is generally desirable to assure a minor child frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing. While actual physical custody may not be practical or appropriate in all cases, it is the intent of the legislature that both parents have the opportunity to guide and nurture their child and to meet the needs of the child on an equal footing beyond the considerations of support or actual custody.

(b) The legislature also finds that it is in the best interests of a child to encourage parents to implement their own child care agreements outside of the court setting.

* Sec. 2. AS 09.55.205 is repealed and reenacted to read:

Sec. 09.55.205. JUDGMENTS FOR CUSTODY. (a) In an action for divorce or for legal separation the court may, if it has jurisdiction under AS 25.30.020 and is an appropriate forum under AS 25.30.050 and 25.30.060, during the pendency of the action, at the final hearing, and at any time thereafter during the minority of a child of the marriage, make an order for the custody of or visitation with the minor child which may seem necessary or proper and may at any time modify or vacate the order.

[(b) An appointment of a guardian ad litem for a child shall be

delete - conflict current AS - should be discretionary

Need to insure "mediation system" in child custody program.

e under AS 09.65.130.

(c) The court shall determine custody in accordance with the best interests of the child under AS 25.20.060 - 25.20.180. In determining the best interests of the child the court shall also consider

(1) the physical, emotional, mental, religious, and social needs of the child;

(2) the capability and desire of each parent to meet these needs; Variety of life experience

(3) the child's preference if the child is of sufficient age and capacity to form a preference;

(4) the love and affection existing between the child and each parent;

(5) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(6) the desirability of offering the child a variety of life experiences; Need extended family rights - grandparent.

(7) the desire and ability of each parent to allow an open and loving relationship between the child and his other parent.

repeal (d) In making an award of custody under AS 25.20.060 - 25.20.180 and this section, the court may not consider the conduct, marital status, income, social or cultural environment, or life style of either parent unless it is shown that the factor has caused or may cause emotional or physical injury to the child.

Sec. 3. AS 25.20.060 is amended to read:

Sec. 25.20.060. CUSTODY OF THE CHILD. If there is a dispute over child custody, either parent may petition the superior court for resolution of the matter under AS 25.20.060 - 25.20.180 [THIS SECTION UNLESS AN ACTION BETWEEN THE PARENTS IS PENDING UNDER AS 09.55]. The court shall award custody on the basis of the best interests of the child.

In determining the best interests of the child, the court shall consider all relevant factors including those factors enumerated in AS 09.55.-205(c) [AS 09.55.205]. Neither parent, regardless of the question of the child's legitimacy, is entitled to preference in the awarding of custody.

* Sec. 4. AS 25.20 is amended by adding new sections to read:

Sec. 25.20.070. SHARED CUSTODY. When a question involving the custody of a child is before a court of the state, there is a rebuttable presumption that shared custody is in the best interest of the child.

Sec. 25.20.080. MEDIATION. The court considering a request for custody of a child may request the parties to participate in pre-trial mediation of the matters before the court.

Sec. 25.20.090. AWARD OF CUSTODY. (a) The court may award shared custody

(1) on application of one or both parents;

(2) when the parents have agreed to an award of shared custody; and

(3) on an agreement for shared custody in open court.

(b) If the court declines to enter an award of shared custody, the court shall enter on the record its reason for denying the award.

(c) An award of the custody of a minor child may be modified to an award of shared custody under AS 25. 0.060 - 25.20.180.

(d) The court may require the parents to submit to the court a proposal for award of shared custody.

Sec. 25.20.100. MODIFICATION OR TERMINATION OF CUSTODY. An award of custody may be modified or terminated if the court determines that the best interests of the child require the modification or termination of the award. If a parent opposes the modification or termination of

the award of custody, the court shall enter on the record its reason for modifying or terminating the award.

Sec. 25.20.110. PREFERENCE OF THE CHILD. If the child is of sufficient age and capacity to form an intelligent preference as to custody, the court shall give due weight to the preference of the child.

Sec. 25.20.120. FACTORS FOR CONSIDERATION BY COURT. In an award of shared custody under AS 25.20.060 - 25.20.180, the court shall consider

(1) the needs of the child;

(2) the stability of the home environment likely to be offered by each parent;

(3) the quality and the continuity of the education of the child;

(4) the advantages of maintaining the child in the same community as compared with the potential advantages of a new community;

(5) the advantages of providing a varied life experience for the child;

(6) the optimal time for the child to spend with each parent considering

(A) the actual time spent with each parent;

(B) the proximity of each parent to the other and to the school in which the child is enrolled;

(C) the feasibility of travel between the parents;

(D) special needs unique to the child that may be better met by one parent than the other;

(E) which parent is more likely to encourage frequent and continuing contact with the other parent;

(7) the findings and recommendations of a neutral mediator

where mediation is recommended by the court;

(8) other factors the court considers pertinent.

Sec. 25.20.130. PREFERENCES ON AWARD. Custody should be awarded in the following order of preference according to the best interests of the child:

(1) to both parents in shared custody under AS 25.20.060 - 25.20.180;

delete here - this is on p. 2 sec. 7 —

(2) [to the parent determined by the court to be more likely this person may be the weaker parent and best to allow the child to have frequent and continuing contact with the parent not granted custody;] responsible.

(3) to neither parent but to a person or persons in whose home the child has been living in a wholesome and stable environment;

(4) to a person determined by the court to be best able to provide adequate and proper care and guidance for the child. Supreme Ct. Decisions favor Extended Family

Sec. 25.20.140. TEMPORARY CUSTODY. Unless it is shown to be detrimental to the welfare of the child, the child shall have, to the greatest degree practical, equal access to both parents during the time that the court considers an award of custody under AS 25.20.060 - 25.20.180. Extended family should be given prior custody to

Sec. 25.20.150. AWARD OF CUSTODY TO NONPARENT. The court may not award custody to a person who is not a parent of the child unless the court finds that an award of custody to a parent would be detrimental to the best interests of the child. Broadens current law -

Sec. 25.20.160. PLEADINGS. An allegation that the award of custody to a parent would be detrimental to the best interests of the child may not appear in pleadings beyond a general allegation to that effect.

Sec. 25.20.170. ACCESS TO RECORDS OF THE CHILD. A parent who is not the parent granted custody under AS 25.20.060 - 25.20.180 may have

child right to privacy may not be protected on availability of records.

access to the medical, dental, school, and other records of the child notwithstanding any other provision of law.

Sec. 25.20.180. DEFINITION. In AS 25.20.060 - 25.20.180, "shared custody" means an award of custody of the child to both parents and includes an award of physical custody which assures the child of frequent and continuing contact with each parent.

4.22.81 → HB 210

Frances Stevens Ave

Rudy Johnson - Ck on Lowd intro last yr.
- HB 210 - yes
- mand. mediation required in Calif, in disputed custody + very success 60-80%.

HB-210 3/26/81

Child Custody - Shared Custody.

Brian Rogers - sponsor - yes

Grant Callan - Ak Court System - no

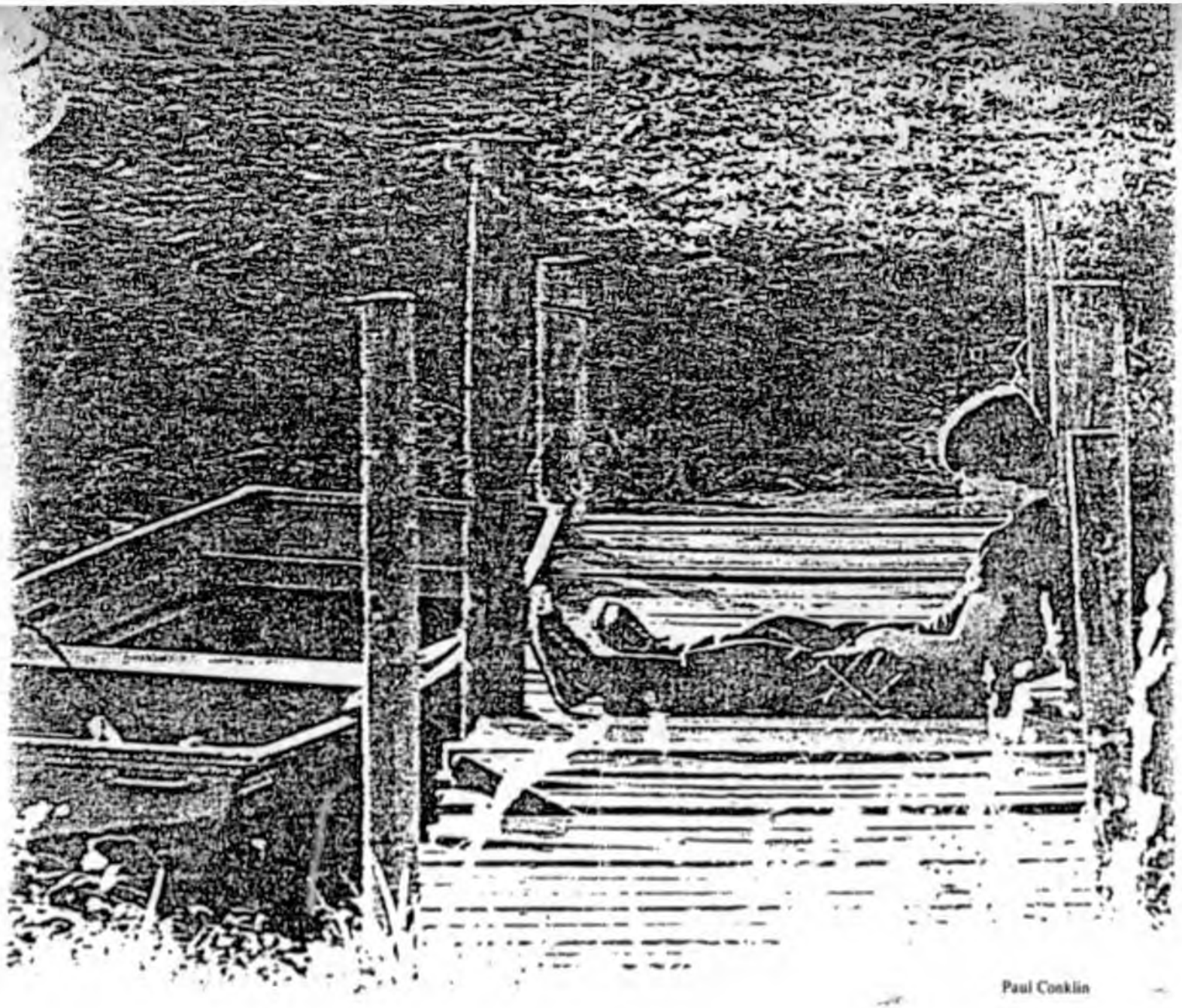
Nina Kenney - HHSS dept - yes

Chris Noah - private citizen - yes

Deanne Bergstrom - " " - yes

It did not work for her + ex - although paper relationship etc. Tends to favor 1 or other parent.

Next time you have complete disregard for the rules & interrupt a roll call vote by walking in - your seat will be moved to the back.



Paul Conklin

Child Custody: Why Not Let the Parents Decide?

This seemingly impossible solution is actually working through a novel experiment on mediation

By Jessica Pearson

Mediation is a cooperative dispute resolution process in which a neutral third party tries to keep contesting parties talking until they reach a settlement of their differences. Rooted in African moots, socialist comrades' courts, psychotherapy, and labor mediation rather than Anglo-American jurisprudence,[1] mediation stresses honesty, informality, open and direct communication, expression of emotion, attention to the underlying causes of disputes, reinforcement of positive bonds, and avoidance of blame. Its central purpose is to "reorient the parties toward each other not by imposing rules on them, but by helping them to achieve a new and shared perception of their relationship, a perception that will direct their attention and dispositions toward one another."[2]

A mediator's first job is typically to obtain the parties' trust and confidence. The mediator also begins to acquire information about the causes of the dispute, the visible and invisible issues, the emotional forces at work, and the power variables that affect the parties. Along with this diagnostic activity, mediators must work to establish their impartiality and to facilitate communication between the parties. Next, the mediator must convince the parties that strict adherence to their original bargaining positions is unreasonable. Finally, the mediator must be able to suggest other options to the parties, press a party to change a position, or criticize one or both of the parties for intransigent behavior.

The use of mediation in child custody disputes can be justified on some very obvious grounds. One is the sheer upsurge in family litigation. In 1979, there were nearly 1.2 million divorces affecting more than 2 million adults and 1.5 million children.[3] Forty percent of all marriages end in divorce,[4] and recent surveys show that custody litigation is on the rise. For example, in 1970 a survey of divorces in Minnesota concluded that custody contests occurred in 5 percent of cases involving children, but in 1978 another survey found that custody was disputed in 14 percent of divorces involving minor children.[5] Not surprisingly, courts are being overwhelmed by the demands placed on them.

The judicial award of custody also has become more controversial. In recent years, most states have replaced maternal preference standards with discretionary sex neutral standards that stress the best interests of the child. These new standards, however, do not mean that custody decisions have changed substantially.

In a recent analysis of 120 contested custody cases adjudicated in Colorado prior and subsequent to the legislature's adoption of a sex neutral, best interest standard, I found that procedures and award patterns continued to substantially favor mothers. Both before and after the adoption of this new standard, most fathers who obtained custody did so either because their wives agreed to such arrangements or because they were unfit to parent. The tradition of court-awarded custody to the mother is so great that in a number of instances courts awarded custody even though the mother was shown to have serious emotional problems.[6] Not surprisingly, fathers in several states have organized

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and brought lawsuits alleging sex discrimination in judicial custody awards.[7]

One problem is determining the criteria to be used in ascertaining the best interests of the child. According to a recent review, the legal, psychological, and counseling literature now includes more than 50 theoretical and speculative articles on custody decision making, containing some 299 standards that could be applied in these cases.[8] Judges complain that they are asked to make predictions and measurements of character that are not susceptible to balance sheet resolutions or accurate methodologies. On the other hand, many people feel that judges act on their own biases and values in deciding the best interests of the child.[9]

Another argument for mediation is that the adversary system is simply inappropriate for the resolution of many marital disputes. Writers variously accuse it of increasing trauma, escalating conflict, obstructing communication, failing to provide for the negotiating and counseling needs of divorcing couples, and ignoring the underlying causes of grievances. Lawyers and judges are accused of being poorly trained to deal with the psychological aspects of divorce. Because lawyers replace rather than assist couples with negotiations, the agreements generated inspire little commitment and fail to enhance the conflict management skills of the parties. Finally, adjudication is faulted for being coercive, formal, costly, and time-consuming.[10]

According to several experts, court processes run counter to the best interests of children. The psychological literature tells us that divorce is significantly more damaging to children of all ages when it becomes a prolonged procedure fraught with bickering, and when children themselves become the focus of the divorce dispute. To the extent that mediation leads to greater parental adjustment, reduces levels of interparental conflict, and increases time that parents can devote to their children, children become better adjusted.[11]

Perhaps the most persuasive reason for rethinking the current system for resolving custody disputes, however, is that the resolutions it inspires frequently fail to work. Noncompliance with visitation and child support agreements is at epidemic proportions. A recent study of 105 divorced families found that after two years the court had to intervene once in 52 percent of the cases and had to intervene two to ten times in another 31 percent of the cases. Only 17 percent of the families were able to avoid additional court contests altogether.[12]

Not surprisingly, divorce mediation has gained tremendous popularity in the past several years. Courts and social service agencies in approximately 13 states have established mediation or conciliation counseling services, and many individuals have begun private mediation services. A number of practitioners have developed and published model approaches to divorce mediation,[13] and this new area of practice has attracted much interest and attention in the social work and legal professions. For example, a Toronto survey found judges, lawyers, and counselors very certain that a mediation service was needed,[14] and a 1980 poll of 88 domestic relations attorneys in Colorado revealed that 90 percent favored the mediation of contested custody and visitation issues. Finally, California recently enacted into law Senate Bill No. 961, a provision requiring mediation for all couples with children under 12 who have custody and visitation disputes.

THE DENVER PROJECT

The Denver Custody Mediation Project, a three-year experiment begun in March 1979 and sponsored by the Piton Foundation of Colorado and the Colorado Bar Association, fulfills two objectives.

One is to organize and administer a mediation service for divorcing couples in the Denver metropolitan area who disagree about custody and visitation arrangements for their children. Contesting families receive up to eight hours of free mediation services from lawyers and mental health professionals recruited by the project and trained in mediation techniques. Working individually and in male-female, lawyer-mental health professional teams, mediators first try to help couples understand and communicate about their disagreements and then assist them in drawing up mutually agreeable settlements that are incorporated into appropriate court documents.

The project obeys strict confidentiality guidelines. All disputants waive their right to refer to the mediation experience or mediation materials in any subsequent litigation between them. Nor do project mediators and staff relate any case information to court investigators, evaluators, or judges.

The second project goal is to evaluate rigorously the mediation process and its outcomes. In the Jefferson and Denver district courts, all suspected cases of contested custody and visitation are referred to the project by the setting clerks, referees, judges, and probation and social service department investigators.

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Mediation makes a difference in the kinds of custody arrangements that parents choose

Additional cases are referred by attorneys and disputants residing in Denver, Jefferson, and Arapahoe counties.

Cases referred to us are randomly assigned a mediation or control group status. Couples are contacted by letter and telephone and offered free mediation services. Control group couples are contacted and asked to be interviewed for research purposes only. Mediation couples are interviewed before and after mediation, while control group couples are interviewed before their pending court hearings. All couples are interviewed again, both after the court promulgates orders regarding custody or visitation actions and six to twelve months later.

With this information, we can reliably compare mediation outcomes with those obtained through the traditional adversarial process. Specifically, they are able to generate information on the types of disputes and disputants amenable to each mode of conflict resolution and on the types of mediation techniques associated with successful mediation outcomes. Finally, we are able to provide information on the short- and long-term effects that mediation and adversarial interventions have on divorce adjustments and on the relitigation of custody and visitation issues.

PRELIMINARY FINDINGS

Of the 436 potential custody and visitation cases that were referred to our project, we randomly assigned 310 to a mediation group and 126 to a control group. We have found that a sizable percentage of the cases were inappropriate for mediation and control group purposes. Cases are deemed inappropriate if parties decide to reconcile, if custody is not in dispute, if we are unable to contact one or more of the disputants, or if we discover that one or more disputants resides beyond a reasonable commuting distance. Using these criteria, about half of the cases we identified from all sources and assigned to mediation and control groups were rejected from further consideration.

Much to our surprise, we have also found that many eligible disputants reject the mediation offer we extend to them. But willingness to mediate seems to be on the rise. Between September 1979 and May 1980, acceptance rates ranged from 35 percent to 48 percent; since then 66.7 percent of the couples offered the chance to mediate have agreed to do so. Nevertheless, mediation continues to be alien to the general public and many individuals have reservations about it. Our best acceptance rates are found among cases referred to us by lawyers and disputants themselves. Typically, these cases involve disputants who have expressed an interest in mediating before a referral is made. Our lowest acceptance rates are found among cases referred to us by the courts (e.g., setting clerks, judges, and referees).

About 80 couples have mediated or are in the process of mediating. Of 61 who have completed mediation, five withdrew after the first sessions. In these instances, disputants decided that they did not want to mediate, or the mediators felt that the couple had severe abuse or psychological problems that warranted court investigation. Of the 51 couples who mediated for more than one session, 30 were able to come to an agreement and 26 were not—an agreement rate of 54 percent. The average number of mediation sessions per case was 4.2; the average number of hours devoted to each case was 5.6.

Most couples who reached a mediation agreement (75 percent) decided on a joint or shared custody arrangement. Although most of these agreements call for one parent to have primary residential care of the children (usually the mother), the agreements typically acknowledge that both parents are fit to parent and that they each will play a significant role in their child's upbringing. The nonresidential custodian also receives very generous visitation terms such as one week and one weekend per month, every weekend, or summer months and vacation. Twenty percent of the joint custody agreements call for the regular alternation of child care between parents on a weekly, monthly or yearly basis.

Mediation couples who did not reach agreements in mediation eventually came up with more conventional custody arrangements: 21 percent stipulated joint custody, 50 percent agreed to a mother-only award, and 29 percent settled on a father-only arrangement. Couples who exclusively utilized the adversarial system, on the other hand, arrived at even more conventional parenting arrangements. Only 14 percent of control couples and 8 percent of the couples who rejected the mediation offer opted for joint or shared custody arrangements. The proportions of mother-only awards for these groups were 71 percent and 56 percent, respectively, the proportions of father-only awards were 7 percent and 24 percent, respectively, and the proportions of split custody awards were 7 percent and 12 percent, respectively.

Most couples who failed to reach mediation agreements remained enthusiastic about the process. They blamed the failure to mediate on an uncooperative spouse rather than on the mediator or the process. Typically, such couples reported improved cooperation and communication. Moreover, they appeared to be able to settle their differences on their own, prior to their court hearing. While all the couples who reached

custody agreements during mediation stipulated them in court (except for two who took no further action), 75 percent of the couples who were unable to settle in mediation subsequently went on to stipulate about custody and visitation too. Only three relied on an investigation and judicial order, and one couple had their custody terms decided on by a judge without an investigation.

In contrast, the settlement rate among control group couples or couples who rejected the mediation offer was a good deal lower. Although 50 percent of the control group couples and 44 percent of the couples who rejected mediation were able to stipulate a child custody agreement in court, the remaining control and reject couples (50 and 56 percent, respectively) relied on the court to decide their custody and visitation arrangements.

BENEFITS AND LIMITS OF MEDIATION

A number of conclusions can be drawn from all this:

1. While mediation continues to be alien to the general public, we are finding that it is becoming a more acceptable alternative. In recent months, we have begun to accept self-referrals and referrals by attorneys. We now encounter disputants before they become heavily committed to litigation. As a result, the proportion of couples who accept our mediation offer is on the rise.

2. Based on interviews with all individuals who reject our mediation offer, we find that willingness to mediate is tied to the demographic characteristics of disputants, their personal marriage and divorce experiences, and their evaluation of their chances of winning in court. Briefly, mediation is more attractive to better educated individuals with higher incomes and

A Sample Mediation Agreement

Randy and Susan hereby make the following agreement concerning custody and financial support of their daughter, Tracy.

1. The parties shall have joint legal custody of Tracy. Such joint legal custody shall include shared responsibility for all major decisions concerning the education, medical care, dental care, spiritual care and up-bringing, and all other matters concerning the general welfare of the child. The parties shall confer with each other on a regular basis in order to make every effort to establish a harmonious policy respecting the decisions concerning Tracy.

2. Although the parties shall have joint legal custody of Tracy, Susan is hereby designated the primary residential custodian of the child. It is, however, the intention of the parties that there shall be a more equal sharing of the physical custody of Tracy at such time as she reaches school age. At that time, at the request of either party, a child psychologist or other competent mental health professional shall be consulted to assist the parties in reaching agreement on custodial arrangements which will best meet Tracy's needs.

3. For so long as Susan is the primary residential custodian of Tracy, the parties shall alternate physical custody on the following four-week cycle:

Randy—5 pm Friday to 5 pm the following Friday.
Susan —5 pm Friday to 5 pm the following Friday.
Randy—5 pm Friday to 5 pm the following Sunday.
Susan —5 pm Sunday to 5 pm the following Friday.
Susan —5 pm Friday to 5 pm the following Friday.
Randy—5 pm Friday to 5 pm the following Friday.
REPEAT CYCLE

4. Physical custody of Tracy shall be alternated on major holidays as follows:

In 1980 and in even-numbered years thereafter, Randy shall have Tracy on New Year's Day, Easter, Labor Day and Christmas. Susan shall have Tracy on Valentine's Day, July 4, Halloween and Thanksgiving. In odd-numbered years the above schedule shall be reversed between the parties. Susan shall be entitled to have Tracy on Mother's Day each year and Randy shall be entitled to have Tracy on Father's Day each year. In the event Susan is entitled to have Tracy on a holiday in accordance with the above schedule which falls on a day or weekend when Randy would otherwise be entitled to custody, the above holiday schedule shall control and Randy shall be entitled to have custody of Tracy for one day of the next work week or weekend (depending on whether the day Randy missed as a result of the holiday fell on a weekday or weekend) which would otherwise be Susan's time to have Tracy.

5. Each party shall give the other party at least one month's advance notice of any planned vacation trips away from the Denver metropolitan area. In the event that Susan takes a vacation trip with Tracy away from the Denver metropolitan area during a time where Randy otherwise would be entitled to have physical custody of Tracy as provided above, Randy's physical custody of Tracy shall be postponed for one week. If Randy desires to take a vacation trip away from the Denver metropolitan area he shall be entitled to take Tracy on such a trip each year for not more than two consecutive weeks. In such event, the above schedule for alternating physical custody of Tracy shall be adjusted accordingly.

6. Neither party shall remove Tracy from the State of Colorado for more than a two-week vacation period each year, unless otherwise agreed between the parties or ordered by the court. In addition, neither party shall move the residence of Tracy outside of a 60-mile radius of Denver, without the express written permission of the other party or an order of court.

7. With respect to all changes in physical custody of Tracy as provided above, Randy shall be responsible for picking up Tracy from Susan's residence at the

occupational rankings. This is consistent with research showing that early acceptors of new technology are the young, educated, and wealthy. While women who are ambivalent about ending a marriage are typically opposed to mediation, ambivalent men are eager for it. Many men choose to mediate because they evaluate their chances of winning in court as low. Women, in contrast, choose to mediate because it promises to be less remote and impersonal than the court system.

Given the prevailing values, experiences, and behaviors of men and women in our society, it probably makes sense that women are drawn to mediation because of its "cooperative" aspects, while men are attracted to it because they anticipate failure in the "competitive" dispute resolution system. Finally, disputants, especially women, tend to mediate if their lawyers encourage them to try. This underscores the importance of the legal community to the success of any mediation effort.

3.. Although mediation is somewhat more *attractive* to better educated and upper status individuals, social class factors don't appear to explain successful and unsuccessful mediation *outcomes*. While 36 percent of the individuals with college or graduate education reached mediation agreements, 43 percent of those with grade school or high school education were successful. Similarly, while 34 percent of professionals and managers were successsful, 54 percent of service machine operators and laborers were successful.

4. Mediation inspires agreement making in direct and indirect ways. Fifty-five percent of our mediation couples came to an agreement in mediation. Nearly all of the remaining couples came to an agreement on their own, prior to their court hearing. This translates into a

beginning of the period of change of physical custody and Susan shall be responsible for picking Tracy up from Randy's residence at the end of each period of physical custody with Randy. Each party shall give the other a minimum of 48 hours notice if he or she will not pick up Tracy as provided by this agreement or any modification of this agreement the parties may from time to time make. In the event a party fails to give such 48 hours notice and the other party has made plans on the assumption that the other party will have physical custody of Tracy, the party failing to give such 48 hours notice shall be responsible for obtaining and paying for babysitting for Tracy for the period in question.

8. The above provisions concerning custody of Tracy may be modified from time to time as Susan and Randy may agree. However, no such modification shall be construed to be a permanent modification of this agreement unless expressly agreed in writing.

9. In the event Tracy becomes seriously injured or seriously ill, the party having physical custody of her at the time shall forthwith notify the other party, by telephone or telegram. As used herein, the term "seriously injured" or "seriously ill" is defined to mean confinement to a hospital for any period of time or confinement to bed, other than in a hospital, for more than three consecutive days.

10. For so long as the above arrangement continues with Susan being the primary residential custodian of Tracy, Randy shall pay to Susan as and for child support the sum of $60 every other Friday, through the Registry of the Court. Said child support shall not be reduced or suspended during any period when Randy has physical custody of Tracy. Randy shall be entitled to claim Tracy as a dependency exemption for income tax purposes and Susan agrees that she will not also attempt to claim the exemption for Tracy.

11. Randy shall continue to carry medical insurance for the benefit of Tracy for as long as it is available through his employment. In the event such medical insurance becomes no longer available through his employment, the cost of maintaining medical insurance for Tracy shall be shared equally by Susan and Randy. Any medical, dental (including orthodontia), optical, and prescription drug expenses which are not covered by any insurance available for Tracy's benefit shall be shared equally by the parties. Except in case of emergency, neither party shall incur any expense which may not be covered by insurance, without first consulting with and seeking the approval of the other party. Such approval shall not be unreasonably withheld.

12. This agreement shall be reevaluated, and if deemed necessary by either party, renegotiated, upon the happening of any one of the following events: (1) The remarriage of either party; (2) If either person begins residing with an unrelated member of the opposite sex; (3) If either party moves from their present residence; (4) The physical or mental disability of either party; (5) Any change in the circumstances of either party which could significantly affect the welfare of Tracy.

13. If the parties at any time disagree concerning any decision affecting Tracy, disagree in their interpretation of this agreement, or seek modification of this agreement, such dispute shall be first submitted to mediation for resolution. If the mediation is not successful, all unresolved disputes shall be submitted to binding arbitration by one arbitrator to be agreed upon between the parties. In the event the parties are unable to agree on an arbitrator, the arbitrator shall be appointed, at the request of either party, by the chief domestic relations judge of the Denver district court. Such arbitrator shall be an attorney with substantial experience in family law matters. Any costs or expenses for mediation or arbitration (not including attorneys' fees for the attorneys for the parties) shall be shared by the parties. —J.P.

stipulation rate of 88 percent and far exceeds the 50 percent stipulation rate observed among control and reject couples who pursued their disputes entirely through the court system.

5. Mediation makes a difference in the kind of custody arrangements couples decide on. While mediation couples opt for joint custody arrangements, control group couples and couples who reject mediation arrive at more conventional mother-only awards.

6. Mediation may result in lower recidivism. Although our project is too young to have a reliable reading on custody relitigation among couples who mediate, the experiences of other mediation programs suggest that it will be lower than among those who adjudicate. For example, while 34.3 percent of traditional custody study families returned to the court from 1976 to 1978 in Dane County, Wisconsin, only 10.5 percent of mediation families returned.

7. Mediation is a cheaper way to resolve custody and visitation disputes. In Los Angeles, Hugh McIsaac estimates that during 1978 the conciliation court successfully resolved 747 cases at a projected net savings of $175,044. While the conciliation court cost per hour is $20.50 and the amount of time expended per case is approximately three hours, the cost of the trial court per day is $725. He estimates that each resolved dispute saves the court one-half a court day.[13]

Based on data supplied by the state court administrator in Colorado, we estimate that it costs about $881.68 per day to operate a trial court there. In a survey conducted with lawyers in the Denver metropolitan area, we learned that the average bench time required to resolve a contested custody case is 9.8 hours. This means that each custody resolution costs the state approximately $1,080 in bench time, and each custody investigation costs the state approximately $528. Not included are private attorney fees paid by disputants, as well as fees for private investigators, evaluations, and testimony by expert witnesses.

The average number of hours devoted to each case in the Custody Mediation Project, in contrast, is 5.4. Our mediators are paid $25 per hour. Because our mediators mediate singly and in teams, this translates to a direct, average cost of $135 to $270 per case. Even if we assume an overhead of 100 percent for project administration, the cost of mediating falls far below the cost of litigating.

8. Whether mediation succeeds or fails it is favorably rated by disputants. Most say it is more relaxed, open, understandable, and agreeable than court interventions. They would recommend the process to a friend with a similar dispute and feel it has helped them to communicate with and better understand an ex-spouse.

9. However, mediation is not the answer for everyone. Individuals with severe pathologies and disorders clearly have counseling and longer-term therapy needs that are not met in mediation. They need to be referred elsewhere for premediation treatment.

The Family Division of the Connecticut Superior Court has identified four situations as *not* appropriate for mediation referral and believes that the interests of children are best served in these cases by a traditional court evaluation and judicial determination.

These situations are: (a) cases involving children who have been or are alleged to be physically abused or neglected; (b) most situations that involve multiple social agency and psychiatric contacts for the adults or children; (c) postjudgment cases involving long-standing, bitter conflict between the parties and a history of repeated court appearances; and (d) cases in which one or more of the adults has experienced serious psychological problems or has demonstrated erratic, violent or severely antisocial modes of behavior.[14]

Still other couples may need more conventional divorce therapy to resolve lingering problems about the decision to divorce before they can begin to mediate effectively.

If these patterns persist, we may safely conclude that mediation is beneficial whether or not it results in a written agreement. Although not effective for everyone, the process is cheaper, it helps couples to communicate, it inspires them to stipulate, and it encourages them to opt for more coparenting than is the case among couples who process their disputes exclusively in the court system.

WHAT JUDGES CAN DO

Judges are critically important to the future of divorce mediation. They can help initiate mediation programs within their jurisdictions and press for statutory change to make mediation services available on a statewide basis. Although mediation programs may be funded in a variety of ways, one popular route is to raise filing fees for marriage licenses, divorce petitions, and modifications and to earmark these monies to pay for mediation services. If confidentiality is desired (and many programs are based on the belief that confidentiality is necessary for successful mediation outcomes), judges can develop methods for insuring the privacy of mediation proceedings, including quashing motions to subpoena mediators or information generated in the mediation process. Judges can help mediation programs gain public acceptance by urging couples to try it and by instructing attorneys to encourage their disputing clients to attempt it. Finally, judges can help by approving mediation, including joint custody agreements, and incorporating them into court orders and other actions relevant to the processing and conclusion of a particular dispute. ###

1. W.L. Felstiner and L.A. Williams, Community Mediation in Dorchester, Massachusetts (Los Angeles: Program for Dispute System Research, Social Science Research Institute, University of Southern California, mimeo).

2. Fuller, *Mediation—Its Forms and Functions*, 44 S. CAL. L. REV. 305 (1971).

3. Glick, *Children of Divorced Parents in Demographic Perspective*, J. SOC. ISSUES 170-82 (1979). *See also*, National Center for Health Statistics, *Births, Marriages, Divorces and Deaths for 1979*, MONTHLY VITAL STATISTICS REPORT (Hyattsville: United States Department of Health, Education and Welfare, 1980). DHEW Publications No. (PHS) 80-1120, Vol. 28, No. 12, March 14.

(Please turn to page 12)

agreements, out-of-state travel, child support (which was reduced to $30 a week), consultations on all major decisions affecting Tracy, and an agreement to try mediation if Randy and Susan have trouble with the agreement. They were pleased with the agreement and proud of the work they had done together.

A project lawyer attended the fifth mediation session to review the agreement drafted by Randy and Susan. He changed some wording, replaced the provision on out-of-state residence with moves beyond a 60-mile radius, added provisions on medical and life insurance and the use of binding arbitration if mediation fails. Randy and Susan asked all kinds of legal questions and departed feeling happy and satisfied.

In a postmediation interview, Randy and Susan praised the mediator and the mediation process. Susan said that the information she received cleared up her misgivings about joint custody. Both said they were communicating much better and described themselves as "friends." In an interview six months later, they continued to be satisfied with their agreement and both felt it had been reached in a fair manner. In addition to seeing Tracy at his own home, Randy often drops by and visits Tracy at Susan's house and is on good terms with Susan's new boyfriend. Randy and Susan have had minor disagreements about child support, but Randy says he understands that Susan has a low-paying job and needs help. Both feel that they would recommend mediation to their friends without hesitation.

Randy and Susan's success in mediation could be attributed to a number of factors. Perhaps the key one was their cooperative and committed attitude. The mediator writes:

> Sue and Randy entered mediation with a basically nonhostile, cooperative attitude and came with very few unresolved old issues about the marriage and divorce. Despite some minor disagreements about child-rearing, each saw the other as a capable parent and both were committed to doing what was best for Tracy. Both expressed some apprehension about mediation initially, feeling they had never communicated well and had communicated even less since their separation. However, they responded quickly to the support and structure of the mediation sessions and quickly began to risk the sharing of feelings and ideas.

The nature of the case and the number of issues in dispute are also relevant considerations. Except for a minor disagreement about child support, financial issues were not relevant. The timing of the mediation was also helpful. Both Randy and Susan felt that it would have been impossible for them to mediate before temporary orders and that they needed time to "cool off."

Finally, the mediator used a number of effective techniques. In the first session, she gave the couple an opportunity to experience success at mediation and work out Susan's Christmas vacation plans.

The mediator also allowed Randy to express his anger about Susan's court action and encouraged Susan and Randy to discuss and exchange "generous" statements about their concerns, including his fear that Susan would take Tracy out of state, and her concerns about his drinking habits. She also introduced the idea of joint custody and provided them with the book *Co-Parenting*. She had Randy and Susan each visualize a day with Tracy, an exercise that convinced Randy that he did not have the time to provide a home base for Tracy. She had the couple do a number of joint tasks to improve their cooperative skills, like mapping out Tracy's schedule during 1980. Finally, when Susan was silently upset about Randy's comments on Tracy's appearance, she brought this out into the open and used it as an opportunity to discuss the manner in which the couple handled minor disagreements about Tracy's care.

Pearson

(Continued from page 10)

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STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Prepared By

EQUAL RIGHTS FOR FATHERS OF ALASKA
"Alaskans For Childrens Rights"

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333-9284 Or 333-6693

Release Date: September 4, 1981

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STUDY OF ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For The Calendar Years 1979-1980

I, THAD BUSHUE, do state that the data herein compiled, regarding the Anchorage Superior Court Child Custody Awards, was performed by me personally, through an extensive physical examination of each case. The original files were inspected and data taken to compile the preceeding statistics herein presented.

Thad Bushue — Sept 4 81

THAD BUSHUE, CHAIRMAN
EXECUTIVE COMMITTEE,
BOARD OF DIRECTORS

DATE

Signed and sealed before me, a notary public in and for the State of Alaska, at Anchorage, this 4th day of September, 1981.

Rita S. Dickson

Rita S. Dickson, Notary Public
Anchorage, Alaska
My Commission Expires 11/21/83

This study compiled by Equal Rights For Fathers of Alaska focuses on the contested divorce cases involving child custody under the jurisdiction of the Anchorage Superior Court System during the years 1979-80. The major findings of this study indicate a gross imbalance in the custody award rate to fathers versus mothers.

The custody awards to fathers were further studied to determine influencing factors in these cases. This analization of the custody awards to fathers reveals significant contributing factors, such as, husband/wife agreements, wife abandonments, and/or wife's waiver of rights or failure to appear, considerably reduced the decision making effort of the court.

It was the court's decision to award custody to the fathers in 8 of 312 cases when these aforementioned factors were considered. This resulted in a custody award rate to fathers of 2.6% as opposed to the 11.4% actual custody awards to fathers.

STUD. OF

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

	1979	1980	TOTAL
Total Divorces and Dissolutions	2280	2011	4291
Dissolutions	1229	1225	2454
Non-Contested Divorces	734	537	1271
Contested Divorce Cases	317	249	566
Contested Divorce Cases Involving Custody	199 OF 317	144 OF 249	343 OF 566
Litigants	398	288	686
Children	342	238	580
Total Individuals Affected	740	526	1266

STUD OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

LEGENDS

BY INDIVIDUAL JUDGE

A	CIVIL CASE NUMBER
B	NUMBER OF CHILDREN AFFECTED
C	NUMBER OF CHILDREN UNDER SIX YEARS OF AGE
D	NUMBER OF CHILDREN OVER SIX YEARS OF AGE
E	WIFE STARTED ACTION
F	HUSBAND STARTED ACTION
G	CUSTODY AWARDED TO WIFE
H	CUSTODY AWARDED TO HUSBAND
I	WIFE ABANDONED/DEFAULTED/WAIVERED RIGHTS CUSTODY AWARDED TO HUSBAND
J	JOINT CUSTODY-WIFE (W)/HUSBAND (H)/EQUAL (E) (PHYSICAL CUSTODY)
K	SPLIT CUSTODY DECISION

BY CALENDAR YEAR SUMMARY

A	NUMBER OF CASES
B	NUMBER OF CHILDREN AFFECTED
C	NUMBER OF CHILDREN UNDER SIX YEARS OF AGE
D	NUMBER OF CHILDREN OVER SIX YEARS OF AGE
E	WIFE STARTED ACTION
F	HUSBAND STARTED ACTION
G	CUSTODY AWARDED TO WIFE
H	CUSTODY AWARDED TO HUSBAND
I	WIFE ABANDONED/DEFAULTED/WAIVERED RIGHTS CUSTODY AWARDED TO HUSBAND
J	JOINT CUSTODY-WIFE (W)/HUSBAND (H)/EQUAL (E) (PHYSICAL CUSTODY)
K	SPLIT CUSTODY DECISION

STUD[illegible]F

ANCHORAGE SUPERIOR COUR[illegible] CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Buckalew	7385	1	1	Ø	1	Ø	Ø	1	Ø	Ø	Ø
TOTAL	1	1	1	Ø	1	Ø	Ø	1	Ø	Ø	Ø

STUD. OF

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Buckalew	5113	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	5827	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
TOTAL		2	3	3	Ø	2	Ø	2	Ø	Ø	Ø	Ø

STUD OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Carlson	29	2	2	0	0	1	1	0	0	0	0
	36	2	0	2	1	0	1	0	0	0	0
	140	3	0	3	0	1	0	1	0	0	0
	141	2	2	0	1	0	1	0	0	0	0
	158	1	1	0	0	1	0	0	0	1/W	0
	165	1	1	0	0	1	1	0	0	0	0
	234	2	0	2	1	0	0	1	0	0	0
	259	1	1	0	1	0	1	0	0	0	0
	260	1	1	0	1	0	1	0	0	0	0
	264	2	0	2	1	0	1	0	0	0	0
	332	1	1	0	0	1	1	0	0	0	0
	390	3	0	3	0	1	1	0	0	0	0
	404	2	1	1	1	0	1	0	0	0	0
	440	2	0	2	1	0	1	0	0	0	0
	540	2	2	0	1	0	1	0	0	0	0
	578	1	1	0	1	0	1	0	0	0	0
	647	2	2	0	1	0	1	0	0	0	0
	696	1	0	1	1	0	1	0	0	0	0
	814	1	1	0	1	0	1	0	0	0	0
	828	1	1	0	1	0	1	0	0	0	0
	880	1	0	1	1	0	1	0	0	0	0
	970	2	1	1	0	1	1	0	0	0	0
	988	1	1	0	1	0	1	0	0	0	0
	1102	1	0	1	1	0	1	0	0	0	0
	1226	2	2	0	1	0	1	0	0	0	0
	1228	1	1	0	1	0	1	0	0	0	0
	1461	2	2	0	0	1	1	0	0	0	0
	1474	1	0	1	0	1	1	0	0	0	0
	1511	1	1	0	0	1	1	0	0	0	0
	1512	1	1	0	1	0	1	0	0	0	0
	1635	1	1	0	1	0	1	0	0	0	0
	1747	1	0	1	0	1	1	0	0	0	0
	1760	1	1	0	1	0	1	0	0	0	0
	1792	2	2	0	0	1	1	0	0	0	0
	1812	2	2	0	1	0	1	0	0	0	0
	1870	1	1	0	1	0	1	0	0	0	0
	1891	1	1	0	1	0	1	0	0	0	0

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Carlson	1910	2	0	2	1	0	1	0	0	0	0
(Continued)	1970	5	1	4	0	1	1	0	0	0	0
	2002	1	1	0	1	0	1	0	0	0	0
	2110	3	0	3	0	1	1	0	0	0	0
	2170	3	0	3	1	0	1	0	0	0	0
	2185	2	0	2	1	0	1	0	0	0	0
	2244	1	1	0	0	1	1	0	0	0	0
	2284	1	1	0	1	0	1	0	0	0	0
	2288	3	0	3	1	0	1	0	0	0	0
	2345	1	0	1	0	1	1	0	0	0	0
	2441	1	1	0	1	0	1	0	0	0	0
	2459	2	0	2	1	0	0	0	0	0	1
	2460	1	0	1	1	0	1	0	0	0	0
	2487	1	1	0	1	0	0	0	0	1/W	0
	2569	3	0	3	0	1	0	1	1	0	0
	2610	2	1	1	0	1	1	0	0	0	0
	2643	3	3	0	1	0	1	0	0	0	0
	2654	2	2	0	1	0	1	0	0	0	0
	2659	1	1	0	1	0	1	0	0	0	0
	2781	1	1	0	1	0	1	0	0	0	0
	2784	2	0	2	0	1	1	0	0	0	0
	2798	1	1	0	1	0	1	0	0	0	0
	2995	3	1	2	1	0	1	0	0	0	0
	3043	1	0	1	0	1	0	1	1	0	0
	3214	3	0	3	0	1	0	1	1	0	0
	3247	2	1	1	1	0	1	0	0	0	0
	3260	1	1	0	0	1	1	0	0	0	0
	3270	1	0	1	1	0	1	0	0	0	0
	3288	1	0	1	1	0	1	0	0	0	0
	3367	2	0	2	1	0	1	0	0	0	0
	3377	7	2	5	1	0	0	0	0	0	1/W
	3458	2	2	0	0	1	0	1	1	0	0
	3507	2	1	1	0	1	0	1	1	0	0
	3586	1	0	1	1	0	1	0	0	0	0
	3588	4	0	4	1	0	0	0	0	0	1
	3606	1	1	0	1	0	1	0	0	0	0

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Carlson (Continued)	3626	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø
	3704	2	1	1	Ø	1	1	Ø	Ø	Ø	Ø
	3740	2	Ø	2	1	Ø	1	Ø	Ø	Ø	Ø
	3754	2	Ø	2	Ø	1	Ø	Ø	Ø	1/E	Ø
	3767	2	2	Ø	Ø	1	Ø	1	1	Ø	Ø
	3835	2	1	1	1	Ø	1	Ø	Ø	Ø	Ø
	3907	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	3909	2	Ø	2	1	Ø	Ø	Ø	Ø	1/W	Ø
	3925	2	2	Ø	Ø	1	Ø	1	Ø	Ø	Ø
	4119	1	1	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	4189	1	Ø	1	1	Ø	Ø	1	1	Ø	Ø
	4256	4	Ø	4	1	Ø	1	Ø	Ø	Ø	Ø
	4268	3	2	1	Ø	1	1	Ø	Ø	Ø	Ø
	4696	2	2	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	4824	1	1	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	5008	1	Ø	1	Ø	1	Ø	1	1	Ø	Ø
	5125	2	1	1	1	Ø	1	Ø	Ø	Ø	Ø
	5153	2	1	1	Ø	1	1	Ø	Ø	Ø	Ø
	5189	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	5201	2	1	1	1	Ø	1	Ø	Ø	Ø	Ø
	5234	2	1	1	1	Ø	Ø	1	Ø	Ø	Ø
	5283	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	5291	3	Ø	3	Ø	1	1	Ø	Ø	Ø	Ø
	5354	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	5355	3	1	2	Ø	1	Ø	1	Ø	Ø	Ø
	5433	2	Ø	2	1	Ø	1	Ø	Ø	Ø	Ø
	5477	2	1	1	Ø	1	1	Ø	Ø	Ø	Ø
	5550	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	5592	2	2	Ø	Ø	1	Ø	1	1	Ø	Ø
	5736	2	1	1	1	Ø	1	Ø	Ø	Ø	Ø
	5869	2	Ø	2	1	Ø	Ø	Ø	1	1/E	Ø
	5995	1	Ø	1	Ø	1	[illegible]	1	1	Ø	Ø
	6010	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø
	6120	1	1	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	6188	4	3	1	1	Ø	1	Ø	Ø	Ø	Ø
	6328	1	1	Ø	Ø	1	Ø	1	1	Ø	Ø
	6335	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø

ST. . OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Carlson	6529	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
(Continued)	6574	1	Ø	1	1	Ø	Ø	1	1	Ø	Ø
	6724	3	Ø	3	1	Ø	1	Ø	Ø	Ø	Ø
	6860	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	6889	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	6902	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø
	6954	2	Ø	2	1	Ø	1	Ø	Ø	Ø	Ø
	6983	2	Ø	2	1	Ø	1	Ø	Ø	Ø	Ø
	7037	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø
	7048	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	7076	2	Ø	2	Ø	1	1	Ø	Ø	Ø	Ø
	7135	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	7153	1	Ø	1	1	Ø	Ø	Ø	1	1/E	Ø
	7179	3	2	1	1	Ø	1	Ø	Ø	Ø	Ø
	7204	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
	7412	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	7476	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
	7543	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	7549	2	2	Ø	Ø	1	1	Ø	1	Ø	Ø
	7666	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	7815	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø
	8005	2	Ø	2	1	Ø	1	Ø	Ø	Ø	Ø
	8122	2	1	1	1	Ø	Ø	1	1	Ø	Ø
	8242	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	8275	1	1	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	8379	1	1	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	8440	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	8580	3	Ø	3	Ø	1	Ø	1	1	Ø	Ø
	8612	1	1	Ø	Ø	1	Ø	1	1	Ø	Ø
	8767	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø
	8782	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø
	8811	2	1	1	1	Ø	1	Ø	Ø	Ø	Ø
	8826	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	8873	1	Ø	1	Ø	1	Ø	1	Ø	Ø	Ø
	8885	3	Ø	3	1	Ø	1	Ø	Ø	Ø	Ø
	8936	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø

STU. OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Carlson	8989	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
(Continued)	9060	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	9066	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø
	*1992	3	Ø	3	Ø	1	Ø	Ø	Ø	1/W	Ø
	*4868	3	Ø	3	1	Ø	Ø	1	1	Ø	Ø
	*7863	2	Ø	2	1	Ø	1	Ø	Ø	Ø	Ø
TOTAL		153	263	116	147	102	51	120	23	11	8	2

*Out of numerical sequence

STUD. OF

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Carlson	39	3	1	2	1	0	0	0	0	1/W	0
	67	1	0	1	0	1	1	0	0	0	0
	75	1	1	0	1	0	0	0	0	1/H	0
	134	1	0	1	1	0	1	0	0	0	0
	156	1	1	0		0	1	0	0	0	0
	169	2	1	1	0	1	1	0	0	0	0
	190	4	0	4	1	0	1	0	0	0	0
	221	1	0	1	0	1	1	0	0	0	0
	237	1	1	0	1	0	1	0	0	0	0
	249	3	0	3	1	0	1	0	0	0	0
	277	1	1	0	0	1	0	1	1	0	0
	305	1	*	*	1	0	0	0	0	1/W	0
	348	3	0	3	1	0	1	0	0	0	0
	461	1	1	0	0	1	1	0	0	0	0
	481	1	1	0	1	0	1	0	0	0	0
	594	1	1	0	0	1	0	1	1	0	0
	682	1	1	0	1	0	1	0	0	0	0
	705	2	2	0	1	0	1	0	0	0	0
	706	1	1	0	1	0	1	0	0	0	0
	708	3	1	2	1	0	0	0	0	0	1/H - 2/W
	896	1	1	0	0	'	1	0	0	0	0
	1004	1	1	0	1	0	1	0	0	0	0
	1039	1	0	1	1	0	1	0	0	0	0
	1252	3	0	3	1	0	1	0	0	0	0
	1264	3	0	3	0	1	0	1	0	0	0
	1374	1	1	0	1	0	1	0	0	0	0
	1395	2	0	2	0	1	1	0	0	0	0
	1396	1	0	1	1	0	1	0	0	0	0
	1444	2	0	2	.	0	1	0	0	0	0
	1473	1	0	1	0	1	0	1	1	0	0
	1507	1	1	0	1	0	1	0	0	0	0
	1535	2	1	1	0	1	1	0	0	0	0
	1720	1	0	1	1	0	1	0	0	0	0
	1723	1	1	0	0	1	1	0	0	0	0
	1773	1	1	0	1	0	1	0	0	0	0
	1799	1	1	0	1	0	1	0	0	0	0

STUD OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Carlson	1846	4	2	2	0	1	1	0	0	0	0
(Continued)	1863	1	1	0	0	1	1	0	0	0	0
	2124	1	1	0	0	1	1	0	0	0	0
	2130	3	3	0	1	0	1	0	0	0	0
	2332	1	1	0	1	0	1	0	0	0	0
	2339	2	2	0	1	0	1	0	0	0	0
	2355	1	0	1	0	1	1	0	0	0	0
	2376	1	1	0	1	0	1	0	0	0	0
	2392	2	0	2	1	0	0	0	0	1/W	0
	2629	1	1	0	0	1	1	0	0	0	0
	2715	2	2	0	0	1	1	0	0	0	0
	3007	1	0	1	1	0	1	0	0	0	0
	3031	1	1	0	1	0	1	0	0	0	0
	3037	2	0	2	1	0	1	0	0	0	0
	3043	2	0	2	1	0	0	1	1	0	0
	3099	1	1	0	1	0	1	0	0	0	0
	3169	1	1	0	1	0	1	0	0	0	0
	3945	3	2	1	1	0	1	0	0	0	0
	4053	1	1	0	1	0	1	0	0	0	0
	4056	3	0	3	1	0	1	0	0	0	0
	4111	1	1	0	1	0	0	0	0	1/E	0
	4171	2	1	1	0	1	1	0	0	0	0
	4201	2	2	0	0	1	1	0	0	0	0
	4339	1	1	0	1	0	1	0	0	0	0
	4400	1	0	1	1	0	0	0	0	1/W	0
	4404	3	0	3	0	1	1	0	0	0	0
	4504	1	1	0	1	0	1	0	0	0	0
	4585	1	1	0	1	0	1	0	0	0	0
	4656	1	1	0	1	0	1	0	0	0	0
	4681	1	0	1	1	0	1	0	0	0	0
	4722	2	0	2	0	1	1	0	0	0	0
	4779	3	1	2	0	1	0	1	1	0	0
	4883	2	2	0	1	0	1	0	0	0	0
	5050	2	2	0	1	0	0	0	0	1/W	0
	5055	1	1	0	1	0	1	0	0	0	0
	5073	1	0	1	0	1	1	0	0	0	0

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Carlson	5107	1	1	0	1	0	1	0	0	0	0
(Continued)	5330	1	1	0	1	0	1	0	0	0	0
	5561	2	1	1	0	1	1	0	0	0	0
	5569	3	0	3	0	1	0	1	1	0	0
	5628	1	1	0	1	0	1	0	0	0	0
	5634	1	1	0	1	0	1	0	0	0	0
	5736	2	2	0	1	0	1	0	0	0	0
	6031	1	1	0	0	1	0	1	1	0	0
	6180	2	0	2	1	0	0	0	0	1/W	0
	6219	1	0	1	1	0	1	0	0	0	0
	6391	1	0	1	1	0	1	0	0	0	0
	6522	1	0	1	1	0	1	0	0	0	0
	6553	1	0	1	0	1	0	0	0	1/H	0
	6589	1	0	1	1	0	0	1	1	0	0
	6604	3	0	3	1	0	1	0	0	0	0
	6824	1	0	1	0	1	1	0	0	0	0
	6852	2	0	2	1	0	1	0	0	0	0
	7039	3	0	3	0	1	0	0	0	1/W	0
	7611	3	0	3	1	0	1	0	0	0	0
	7729	1	0	1	0	1	1	0	0	0	0
	7776	1	1	0	0	1	1	0	0	0	0
	7781	2	2	0	1	0	1	0	0	0	0
	8318	1	1	0	1	0	1	0	0	0	0
	8667	1	1	0	1	0	0	0	0	1	0
	*6911	1	1	0	1	0	1	0	0	0	0
TOTAL	97	153	70	82	65	32	75	10	9	11	1

* Out of numerical sequence

STUDY F
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Hanson	3288	2	2	0	0	1	1	0	0	0	0
TOTAL	1	2	2	0	0	1	1	0	0	0	0

STU OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Hodges	3020	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
TOTAL		1	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Johnstone	1534	1	1	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	2841	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
	3211	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
	3286	2	Ø	2	1	Ø	1	Ø	Ø	Ø	Ø
	4548	1	1	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	4855	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	5623	3	Ø	3	Ø	1	1	Ø	Ø	Ø	Ø
	6269	2	Ø	2	Ø	1	1	Ø	Ø	Ø	Ø
	7183	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
TOTAL	9	13	4	9	3	6	9	Ø	Ø	Ø	Ø

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Johnstone	562	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	949	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
	5363	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	8211	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	8422	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
TOTAL	5	6	5	1	4	1	5	Ø	Ø	Ø	Ø

STUI OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Lewis	323	2	2	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	879	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	1311	2	2	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	1722	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	1932	4	1	3	1	Ø	1	Ø	Ø	Ø	Ø
	9063	1	1	Ø	Ø	1	1	Ø	Ø	Ø	Ø
TOTAL	6	11	8	3	3	3	6	Ø	Ø	Ø	Ø

STUD OF

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Lewis	2613	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	3246	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø
TOTAL		2	2	1	1	2	Ø	2	Ø	Ø	Ø	Ø

STUD F

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Moody	853	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	986	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	1363	3	Ø	3	1	Ø	Ø	Ø	Ø	Ø	1/H
	3212	2	Ø	2	Ø	1	1	Ø	Ø	Ø	Ø
	5026	2	1	1	1	Ø	1	Ø	Ø	Ø	Ø
	6824	2	1	1	1	Ø	?	1	1	Ø	Ø
TOTAL	6	11	4	7	5	1	4	1	1	Ø	1

STUD. JF

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Moody	1990	3	0	3	1	0	0	0	0	1/E	0
	2767	2	0	2	1	0	0	0	0	1/W	0
	4133	2	2	0	1	0	1	0	0	0	0
	4620	1	1	0	0	1	1	0	0	0	0
	4775	1	0	1	1	0	1	0	0	0	0
	5147	3	0	3	1	0	1	0	0	0	0
	5246	2	0	2	0	1	1	0	0	0	0
	5272	1	1	0	0	1	0	1	0	0	0
	5312	2	0	2	0	1	1	0	0	0	0
	6376	1	1	0	1	0	1	0	0	0	0
	6856	1	1	0	1	0	1	0	0	0	0
	6901	1	0	1	1	0	0	0	0	*1/W	0
	6910	1	0	1	1	0	1	0	0	0	0
	7012	2	2	0	1	0	1	0	0	0	0
	7017	3	0	3	1	0	1	0	0	0	0
	7338	1	1	0	1	0	1	0	0	0	0
	7339	4	0	4	1	0	1	0	0	0	0
	7356	1	1	0	1	0	1	0	0	0	0
	7517	1	1	0	1	0	1	0	0	0	0
	7922	2	0	2	0	1	0	1	1	0	0
	7927	1	1	0	1	0	1	0	0	0	0
	8117	2	0	2	0	1	0	0	0	1/W	0
TOTAL	22	38	12	26	16	6	16	2	1	3	0

STUDY F

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Moore	1755	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
TOTAL	1	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø

STUD. OF

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	L	F	G	H	I	J	K
Ripley	888	2	Ø	2	1	Ø	1	Ø	Ø	Ø	Ø
	4308	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
	5215	1	Ø	1	1	Ø	Ø	1	Ø	Ø	Ø
	6155	2	2	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	6990	2	1	1	Ø	1	1	Ø	Ø	Ø	Ø
	7560	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	7874	2	1	1	1	Ø	Ø	1	Ø	Ø	Ø
TOTAL		7	11	5	6	4	3	5	2	Ø	Ø	Ø

STU' OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Ripley	3578	2	1	1	Ø	1	Ø	Ø	Ø	1/E	Ø
	5092	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	8077	2	Ø	2	Ø	1	1	Ø	Ø	Ø	Ø
	8153	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
TOTAL	4	7	4	3	2	2	3	Ø	Ø	1	Ø

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Rowland	528	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
	1390	2	1	1	Ø	1	1	Ø	Ø	Ø	Ø
	1559	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
	2096	1	Ø	1	1	Ø	1	Ø	Ø	Ø	Ø
	2830	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	3287	3	Ø	3	Ø	1	1	Ø	Ø	Ø	Ø
	4146	2	Ø	2	Ø	1	1	Ø	Ø	Ø	Ø
TOTAL	7	11	2	9	2	5	7	Ø	Ø	Ø	Ø

STU OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Rowland	1437	2	Ø	2	Ø	1	1	Ø	Ø	Ø	Ø
	8082	7	2	5	1	Ø	1	Ø	Ø	Ø	Ø
TOTAL		2	9	2	7	1	1	2	Ø	Ø	Ø	Ø

STATE OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Shortell	4827	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	5748	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	7263	2	Ø	2	Ø	1	1	Ø	Ø	Ø	Ø
TOTAL	3	5	1	2	2	1	3	Ø	Ø	Ø	Ø

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Singleton	1933	3	1	2	1	Ø	1	Ø	Ø	Ø	Ø
	3474	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	3785	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
	6122	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	7468	2	2	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	7644	1	1	Ø	Ø	1	1	Ø	Ø	Ø	Ø
	7949	4	2	2	1	Ø	1	Ø	Ø	Ø	Ø
TOTAL	7	13	8	5	5	2	7	Ø	Ø	Ø	Ø

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Souter	2057	4	3	1	1	Ø	1	Ø	Ø	Ø	Ø
	8095	3	Ø	3	1	Ø	1	Ø	Ø	Ø	Ø
TOTAL	2	7	3	4	2	Ø	2	Ø	Ø	Ø	Ø

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Souter	1877	1	Ø	1	Ø	1	1	Ø	Ø	Ø	Ø
	1927	2	1	1	1	Ø	Ø	Ø	Ø	1/W	Ø
	2240	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
	4265	2	Ø	2	1	Ø	1	Ø	Ø	Ø	Ø
	5421	6	2	4	Ø	1	1	Ø	Ø	Ø	Ø
TOTAL	5	12	4	8	3	2	4	Ø	Ø	1	Ø

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1979

SUMMARY

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Buckalew	1	1	1	Ø	1	Ø	1	Ø	Ø	Ø	Ø
Carlson	153	263	116	147	102	51	120	23	11	8	2
Hodges	1	1	Ø	1	Ø	1	Ø	1	Ø	Ø	Ø
Johnstone	9	13	4	9	3	6	Ø	9	Ø	Ø	Ø
Lewis	6	11	8	3	3	3	Ø	6	Ø	Ø	Ø
Moody	6	11	4	7	5	1	1	4	1	Ø	1
Ripley	7	11	5	6	4	3	2	5	Ø	Ø	Ø
Rowland	7	11	2	9	2	5	Ø	7	Ø	Ø	Ø
Singleton	7	13	8	5	5	2	Ø	7	Ø	Ø	Ø
Souter	2	7	3	4	2	Ø	Ø	2	Ø	Ø	Ø
TOTAL	199	342	151	191	127	72	161	27	12	8	3

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Year 1980

SUMMARY

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Buckalew	2	3	3	Ø	2	Ø	Ø	2	Ø	Ø	Ø
Carlson	97	153	*70	*82	65	32	75	10	9	11	1
Hanson	1	2	2	Ø	Ø	1	Ø	1	Ø	Ø	Ø
Johnstone	5	6	5	1	4	1	Ø	5	Ø	Ø	Ø
Lewis	2	2	1	1	2	Ø	Ø	2	Ø	Ø	Ø
Moody	22	38	12	26	16	6	2	16	1	4	Ø
Moore	1	1	1	Ø	1	Ø	Ø	1	Ø	Ø	Ø
Ripley	4	7	4	3	2	2	Ø	3	Ø	1	Ø
Rowland	2	[illegible]	2	7	1	1	Ø	2	Ø	Ø	Ø
Shortell	3	[illegible]	3	2	[illegible]	1	Ø	3	Ø	Ø	Ø
Souter	5	12	4	8	3	2	Ø	4	Ø	1	Ø
TOTAL	144	238	107	130	98	46	114	12	10	17	1
*AGE UNKNOWN				*1							

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

SUMMARY

JUDGE	A	B	C	D	E	F	G	H	I	J	K
Buckalew	3	4	4	Ø	3	Ø	1	2	Ø	Ø	Ø
Carlson	250	416	186	229	167	83	195	33	20	19	3
Hodges	1	1	Ø	1	Ø	1	Ø	1	Ø	Ø	Ø
Hanson	1	2	2	Ø	Ø	1	Ø	1	Ø	Ø	Ø
Johnstone	14	19	9	10	7	7	Ø	14	Ø	Ø	Ø
Lewis	8	13	9	4	5	3	Ø	8	Ø	Ø	Ø
Moody	28	49	16	33	21	7	3	20	2	4	1
Moore	1	1	1	Ø	1	Ø	Ø	1	Ø	Ø	Ø
Ripley	11	18	9	9	6	5	2	8	Ø	1	Ø
Rowland	9	20	4	16	3	6	Ø	9	Ø	Ø	Ø
Shortell	3	5	3	2	2	1	Ø	3	Ø	Ø	Ø
Singleton	7	13	8	5	5	2	Ø	7	Ø	Ø	Ø
Souter	7	19	7	12	5	2	Ø	6	Ø	1	Ø
TOTAL	343	580	258	321	225	118	275	39	22	25	4

STUD F

ANCHORAGE S LATOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Buckalew

	1979			%	1980			%	TOTAL			%
Number of Cases	1	OF	199	0.5	2	OF	144	1.4	3	OF	343	0.9
Wife Awarded Custody	Ø		1	0.0	2		2	100.0	2		3	66.7
Wife Started Action					2		2	100.0	2		2	100.0
Husband Started Action					Ø		2	0.0	Ø		2	0.0
Husband Awarded Custody	1		1	100.0	Ø		2	0.0	1		3	33.3
Wife Started Action	1		1	100.0								
Husband Started Action	Ø		1	0.0								
Wife Abandonment	Ø		1	0.0								
Husband/Wife Agreement Before Court Decision	Ø		1	0.0								
Wife Waived Rights/Failure to Appear	Ø		1	0.0								
**Court Award Rate to Husband	1		1	100.0	Ø		Ø	0.0	1		3	33.3
Joint Custody Awarded	Ø		1	0.0	Ø		2	0.0	Ø		3	0.0
Wife Awarded Physical Custody												
Husband Awarded Physical Custody												
Equal Custody-Physical Awarded												
Split Custody Awarded	Ø		1	0.0	Ø		2	0.0	Ø		3	0.0
Children Involved	Under 6/Over 6 1 Ø				Under 6/Over 6 3 Ø				Under 6/Over 6 4 Ø			

STUDY OF
ANCHORAGE SUPERIOR COU CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Carlson

	1979			%	1980			%	TOTAL			%
Number of Cases	153	OF	199	76.9	97	OF	144	67.4	250	OF	343	72.9
Wife Awarded Custody	120		153	78.4	75		97	77.3	195		250	78.0
Wife Started Action	89		120	74.2	53		75	70.7	142		195	72.8
Husband Started Action	31		120	25.8	22		75	29.3	53		195	27.2
Husband Awarded Custody	23		153	15.0	10		97	10.3	33		250	13.2
Wife Started Action	6		23	26.1	2		10	20.0	8		33	24.2
Husband Started Action	17		23	73.9	8		10	80.0	25		33	75.8
Wife Abandonment	3		23	13.0	3		10	30.0	6		33	18.2
Husband/Wife Agreement Before Court Decision	10		23	43.5	2		10	20.0	12		33	36.4
Wife Waived Rights/Failure to Appear	7		23	30.4	4		10	40.0	11		33	33.3
**Court Award Rate to Husband	3		133	2.3	1		88	1.1	4		221	1.8
Joint Custody Awarded	8		153	5.2	11		97	11.3	19		250	7.6
Wife Awarded Physical Custody	4		8	50.0	8		11	72.7	12		19	63.2
Husband Awarded Physical Custody	0		8	0.0	2		11	18.2	2		19	10.5
Equal Custody-Physical Awarded	4		8	50.0	1		11	9.1	5		19	26.3
Split Custody Awarded	2		153	1.3	1		97	1.0	3		250	1.2
Children Involved	Under 6/Over 6				Under 6/Over 6				Under 6/Over 6			
	116 147				70 82				186 229			
*UNRESOLVED AGE					*1							

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Hanson

	1979			%	1980			%	TOTAL			%
Number of Cases	Ø	OF	19[illegible]	0.0	1	OF	144	0.7	1	OF	343	0.3
Wife Awarded Custody					1		1	100.0	1		1	100.0
Wife Started Action					Ø		1	0.0	Ø		1	0.0
Husband Started Action					1		1	100.0	1		1	100.0
Husband Awarded Custody					Ø		1	0.0	Ø		1	0.0
Wife Started Action												
Husband Started Action												
Wife Abandonment												
Husband/Wife Agreement Before Court Decision												
Wife Waived Rights/Failure to Appear												
**Court Award Rate to Husband					Ø		Ø	0.0	Ø		Ø	0.0
Joint Custody Awarded					Ø		1	0.0	Ø		1	0.0
Wife Awarded Physical Custody												
Husband Awarded Physical Custody												
Equal Custody-Physical Awarded												
Split Custody Awarded					Ø		1	0.0	Ø		1	0.0
Children Involved	Under 6/Over 6 Ø Ø				Under 6/Over 6 2 Ø				Under 6/Over 6 2 Ø			

STUD. OF

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Hodges

	1979			%	1980			%	TOTAL			%
Number of Cases	1	OF	199	0.5	Ø	OF	144	0.0	1	OF	343	0.3
Wife Awarded Custody	1		1	100.0					1		1	100.0
Wife Started Action	Ø		1	0.0					Ø		1	0.0
Husband Started Action	1		1	100.0					1		1	100.0
Husband Awarded Custody	Ø		1	0.0					Ø		1	0.0
Wife Started Action												
Husband Started Action												
Wife Abandonment												
Husband/Wife Agreement Before Court Decision												
Wife Waived Rights/Failure to Appear												
**Court Award Rate to Husband	Ø		Ø	0.0					Ø		Ø	0.0
Joint Custody Awarded	Ø		1	0.0					Ø		1	0.0
Wife Awarded Physical Custody												
Husband Awarded Physical Custody												
Equal Custody-Physical Awarded												
Split Custody Awarded	Ø		1	0.0					Ø		1	0.0
Children Involved	Under 6/Over 6 Ø 1				Under 6/Over 6 Ø Ø				Under 6/Over 6 Ø 1			

STUD. OF

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Johnstone

	1979			%	1980			%	TOTAL			%
Number of Cases	9	OF	199	4.5	5	OF	144	3.5	14	OF	343	4.1
Wife Awarded Custody	9		9	100.0	5		5	100.0	14		14	100.0
Wife Started Action	3		9	33.3	4		5	80.0	7		14	50.0
Husband Started Action	6		9	66.7	1		5	20.0	7		14	50.0
Husband Awarded Custody	Ø		9	0.0	Ø		5	0.0	Ø		14	0.0
Wife Started Action												
Husband Started Action												
Wife Abandonment												
Husband/Wife Agreement Before Court Decision												
Wife Waived Rights/Failure to Appear												
**Court Award Rate to Husband	Ø		Ø	0.0	Ø		Ø	0.0	Ø		Ø	0.0
Joint Custody Awarded	Ø		9	0.0	Ø		5	0.0	Ø		14	0.0
Wife Awarded Physical Custody												
Husband Awarded Physical Custody												
Equal Custody-Physical Awarded												
Split Custody Awarded	Ø		9	0.0	Ø		5	0.0	Ø		14	0.0
Children Involved	Under 6/Over 6 4 9				Under 6/Over 6 5 1				Under 6/Over 6 9 10			

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Lewis

	1979			%	1980			%	TOTAL			%
Number of Cases	6	OF	199	3.0	2	OF	144	1.4	8	OF	343	2.3
Wife Awarded Custody	6		6	100.0	2		2	100.0	8		8	100.0
Wife Started Action	3		6	50.0	2		2	100.0	5		8	62.5
Husband Started Action	3		6	50.0	0		2	0.0	3		8	37.5
Husband Awarded Custody	0		6	0.0	0		6	0.0	0		8	0.0
Wife Started Action												
Husband Started Action												
Wife Abandonment												
Husband/Wife Agreement Before Court Decision												
Wife Waived Rights/Failure to Appear												
**Court Award Rate to Husband	0		0	0.0	0		0	0.0	0		0	0.0
Joint Custody Awarded	0		6	0.0	0		2	0.0	0		8	0.0
Wife Awarded Physical Custody												
Husband Awarded Physical Custody												
Equal Custody-Physical Awarded												
Split Custody Awarded	0		6	0.0	0		2	0.0	0		8	0.0
Children Involved	Under 6/Over 6 8 3				Under 6/Over 6 1 1				Under 6/Over 6 9 4			

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Moody

	1979			%	1980			%	TOTAL			%
Number of Cases	6	OF	199	3.0	22	OF	144	15.3	28	OF	343	8.2
Wife Awarded Custody	4		6	66.7	16		22	72.7	20		28	71.4
Wife Started Action	3		4	75.0	13		16	81.3	16		20	80.0
Husband Started Action	1		4	25.0	3		16	18.7	4		20	20.0
Husband Awarded Custody	1		6	16.7	2		22	9.1	3		28	10.7
Wife Started Action	1		1	100.0	Ø		2	0.0	1		3	33.3
Husband Started Action	Ø		1	0.0	2		2	100.0	2		3	66.7
Wife Abandonment	Ø		1	0.0	1		2	50.0	1		3	33.3
Husband/Wife Agreement Before Court Decision	1		1	100.0	Ø		2	0.0	1		3	33.3
Wife Waived Rights/Failure to Appear	Ø		1	0.0	Ø		2	0.0	Ø		3	0.0
**Court Award Rate to Husband	Ø		5	0.0	1		21	4.8	1		26	3.8
Joint Custody Awarded	Ø		6	0.0	4		22	18.9	4		28	14.3
Wife Awarded Physical Custody					2		4	50.0	2		4	50.0
Husband Awarded Physical Custody					Ø		4	0.0	Ø		4	0.0
Equal Custody-Physical Awarded					1		4	25.0	1		4	25.0
*Unknown Physical Custody Awarded (Records Sealed)					1		4	25.0	1		4	25.0
Split Custody Awarded	1		6	16.7	Ø		22	0.0	1		28	3.6
Children Involved	Under 6/Over 6 4 7				Under 6/Over 6 12 26				Under 6/Over 6 16 33			

STUDY 7

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Moore

	1979			%	1980			%	TOTAL			%
Number of Cases	Ø	OF	199	0.0	1	OF	144	0.7	1	OF	343	0.3
Wife Awarded Custody					1		1	100.0	1		1	100.0
Wife Started Action					1		1	100.0	1		1	100.0
Husband Started Action					Ø		1	0.0	Ø		1	0.0
Husband Awarded Custody					Ø		1	0.0	Ø		1	0.0
Wife Started Action												
Husband Started Action												
Wife Abandonment												
Husband/Wife Agreement Before Court Decision												
Wife Waived Rights/Failure to Appear												
**Court Award Rate to Husband					Ø		Ø	0.0	Ø		Ø	0.0
Joint Custody Awarded					Ø		Ø	0.0	Ø		Ø	0.0
Wife Awarded Physical Custody												
Husband Awarded Physical Custody												
Equal Custody-Physical Awarded												
Split Custody Awarded					Ø		Ø	0.0	Ø		Ø	0.0
Children Involved	Under 6/Over 6 Ø Ø				Under 6/Over 6 1 Ø				Under 6/Over 6 1 Ø			

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Ripley

	1979			%	1980			%	TOTAL			%
Number of Cases	7	OF	199	3.5	4	OF	144	2.8	11	OF	343	3.2
Wife Awarded Custody	5		7	71.4	3		4	75.0	8		11	72.7
Wife Started Action	2		5	40.0	2		3	66.7	4		8	50.0
Husband Started Action	3		5	60.0	1		3	33.3	4		8	50.0
Husband Awarded Custody	2		7	28.6	0		4	0.0	2		11	18.2
Wife Started Action	2		2	100.0					2		2	100.0
Husband Started Action	0		2	0.0					0		2	0.0
Wife Abandonment	0		2	0.0					0		2	0.0
Husband/Wife Agreement Before Court Decision	0		2	0.0					0		2	0.0
Wife Waived Rights/Failure to Appear	0		2	0.0					0		2	0.0
**Court Award Rate to Husband	2		7	28.6	0		4	0.0	2		11	18.2
Joint Custody Awarded	0		7	0.0	1		4	25.0	1		11	9.1
Wife Awarded Physical Custody					0		1	0.0	0		1	0.0
Husband Awarded Physical Custody					0		1	0.0	0		1	0.0
Equal Custody-Physical Awarded					1		1	100.0	1		1	100.0
Split Custody Awarded	0		7	0.0	0		4	0.0	0		11	0.0
Children Involved	Under 6/Over 6 5 6				Under 6/Over 6 4 3				Under 6/Over 6 9 9			

STUD. OF

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Rowland

	1979			%	1980			%	TOTAL			%
Number of Cases	7	OF	199	3.5	2	OF	144	1.4	9	OF	3'3	2.6
Wife Awarded Custody	7		7	100.0	2		2	100.0	9		9	100.0
Wife Started Action	2		7	28.6	1		2	50.0	3		9	33.3
Husband Started Action	5		7	7..4	1		2	50.0	6		9	66.7
Husband Awarded Custody	∅		7	0.0	∅		2	0.0	∅		9	0.0
Wife Started Action												
Husband Started Action												
Wife Abandonment												
Husband/Wife Agreement Before Court Decision												
Wife Waived Rights/Failure to Appear												
**Court Award Rate to Husband	∅		∅	0.0	∅		∅	0.0	∅		∅	0.0
Joint Custody Awarded	∅		7	0.0	∅		2	0.0	∅		9	0.0
Wife Awarded Physical Custody												
Husband Awarded Physical Custody												
Equal Custody-Physical Awarded												
Split Custody Awarded	∅		7	0.0	∅		2	0.0	∅		9	0.0
Children Involved	Under 6/Over 6 2 9				Under 6/Over 6 2 7				Under 6/Over 6 4 16			

STU OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Shortell

	1979			%	1980			%	TOTAL			%
Number of Cases	Ø	OF	199	0.0	3	OF	144	2.1	3	OF	343	0.9
Wife Awarded Custody					3		3	100.0	3		3	100.0
Wife Started Action					2		3	66.7	2		3	66.7
Husband Started Action					1		3	33.3	1		3	33.3
Husband Awarded Custody					Ø		3	0.0	Ø		3	0.0
Wife Started Action												
Husband Started Action												
Wife Abandonment												
Husband/Wife Agreement Before Court Decision												
Wife Waived Rights/Failure to Appear												
**Court Award Rate to Husband					Ø		Ø	0.0	Ø		Ø	0.0
Joint Custody Awarded					Ø		3	0.0	Ø		3	0.0
Wife Awarded Physical Custody												
Husband Awarded Physical Custody												
Equal Custody-Physical Awarded												
Split Custody Awarded					Ø		3	0.0	Ø		3	0.0
Children Involved	Under 6/Over 6 Ø Ø				Under 6/Over 6 3 2				Under 6/Over 6 3 2			

STU OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Singleton

	1979			%	1980			%	TOTAL			%
Number of Cases	7	OF	199	3.5	Ø	OF	144	0.0	7	OF	343	2.0
Wife Awarded Custody	7			100.0					7		7	100.0
Wife Started Action	5		7	71.4					5		7	71.4
Husband Started Action	2		7	28.6					2		7	28.6
Husband Awarded Custody	Ø		7	0.0					Ø		7	0.0
Wife Started Action												
Husband Started Action												
Wife Abandonment												
Husband/Wife Agreement Before Court Decision												
Wife Waived Rights/Failure to Appear												
**Court Award Rate to Husband	Ø		Ø	0.0					Ø		Ø	0.0
Joint Custody Awarded	Ø		7	0.0					Ø		7	0.0
Wife Awarded Physical Custody												
Husband Awarded Physical Custody												
Equal Custody-Physical Awarded												
Split Custody Awarded	Ø		7	0.0					Ø		7	0.0
Children Involved	Under 6/Over 6 8 5				Under 6/Over 6 Ø Ø				Under 6/Over 6 8 5			

STUDY OF
ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

Source

	1979			%	1980			%	TOTAL			%
Number of Cases	2	OF	199	1.0	5	OF	144	3.5	7	OF	343	2.0
Wife Awarded Custody	2		2	100.0	4		5	80.0	6		7	85.7
Wife Started Action	2		2	100.0	2		4	50.0	4		6	66.7
Husband Started Action	Ø		2	0.0	2		4	50.0	2		6	33.3
Husband Awarded Custody	Ø		2	0.0	Ø		5	0.0	Ø		7	0.0
Wife Started Action												
Husband Started Action												
Wife Abandonment												
Husband/Wife Agreement Before Court Decision												
Wife Waived Rights/Failure to Appear												
**Court Award Rate to Husband	Ø		Ø	0.0	Ø		Ø	0.0	Ø		Ø	0.0
Joint Custody Awarded	Ø		2	0.0	1		5	20.0	1		7	14.3
Wife Awarded Physical Custody					1		1	100.0	1		1	100.0
Husband Awarded Physical Custody					Ø		1	0.0	Ø		1	0.0
Equal Custody-Physical Awarded					Ø		1	0.0	Ø		1	0.0
Split Custody Awarded	Ø		2	0.0	Ø		5	0.0	Ø		7	0.0
Children Involved	Under 6/Over 6 3 4				Under 6/Over 6 4 8				Under 6/Over 6 7 12			

STUD. OF

ANCHORAGE SUPERIOR COURT CHILD CUSTODY AWARDS

For Calendar Years 1979-1980

SUMMARY

All Judges

	1979		%	1980		%	TOTAL		%
Contested Divorce Cases Involving Custody	199 OF	317	62.8	144 OF	249	57.8	343 OF	566	60.6
Wife Awarded Custody	161	199	80.9	114	144	79.2	275	343	80.2
Wife Started Action	109	161	67.7	82	114	71.9	191	275	69.5
Husband Started Action	52	161	32.3	32	114	28.1	84	275	30.5
Husband Awarded Custody	27	199	13.6	12	144	8.3	39	343	11.4
Wife Started Action	10	27	37.0	2	12	16.7	12	39	30.7
Husband Started Action	17	27	63.0	10	12	83.3	27	39	69.2
Wife Abandonment	3	27	11.1	4	12	33.3	7	39	17.9
Husband/Wife Agreement Before Court Decision	11	27	40.7	2	12	16.7	13	39	33.3
Wife Waived Rights/Failure to Appear	7	27	25.9	4	12	33.3	11	39	28.2
**Court Award Rate to Husband	6	178	3.4	2	134	1.5	8	312	2.6
Joint Custody Awarded	8	199	4.0	17	144	11.8	25	343	7.3
Wife Awarded Physical Custody	4	8	50.0	11	17	64.7	15	25	60.0
Husband Awarded Physical Custody	Ø	8	0.0	2	17	11.8	2	25	8.0
Equal Custody-Physical Awarded	4	8	50.0	3	17	17.6	7	25	28.0
*Unknown Physical Custody (Records Sealed)	Ø	8	0.0	1	17	5.9	1	25	4.0
Split Custody Awarded	3	199	1.5	1	144	0.7	4	343	1.2

Children Involved	Under 6/Over 6		Under 6/Over 6		Under 6/Over 6	
*UNRESOLVED AGE	151	191	*1 107	130	*1 258	321

WITNESSES FOR
HOUSE H.E.S.S. MEETINGS

NAME	ADDRESS/PHONE	REPRESENTING
(1)		
(2) Tim [illegible] Lynch		Self - Custody Attorney
(3)		
(4)		
(5) Roger Welch		
(6) Joyce Rivers		
(7) Rudy Johnson		Equal Rights for Fathers
(8) Dave Hollett		Kenai witness
9 THAD BUSHUE		EQUAL RIGHTS FOR FATHERS
10 Wm H Field	7?? w/6t	Self - DIVORCE ATTY
Margaret Wiesira		
Bob Dammer		Equal Rights for Fathers of Alaska

LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

DATE: 11-20-81

SITE/LOCATION: Anchorage

SPONSOR/SUBJECT: H. HESS HB 210

BROADCAST CONSENT: This teleconference may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by initialing appropriate box.

NAME/REPRESENTING	ADDRESS	PHONE	HERE TO PARTICIPATE	BROADCAST CONSENT	HERE TO OBSERVE
ROBERT D. TALMAGE	SRA Box 15540 ANCH. AK	345-3126			X
(2) State Coordinator for the National Organization for Women Joyce Mansfield Rivers	3041 W 42nd Place Anchorage AK 99503	W-264-7918 H-248-2809	✓	✓	
† Christine Callahan	NK Com. on Status of Women 308 Nimitz St., Juneau, AK. 99801				X
Pope Weed (1)					
Cindy Johnson (3) Equal Rights Fathers	Box U-1646 Anch 99509	333-6693	✓	✓	
Con Bigne	733 W 4th Ave	272-4452			✓
Ed Tatarka	4000 L.O.C. DR #c	272-3331			✓
KARLA F Huntington	519 Delaney	272-9500			✓
William Hoole	12435 OXNARD ST. N. HOLLYWOOD CA 91606	(213) 9809613	✓	✓	✓
William H Hutton	303 K Street Anchorage	269-0416	✓	✓	
John Reese	920 W 6th Anchorage	276-5231	✓	✓	
Margaret Hartley	2607 Eagle St. #4				✓
Dana Howlett	Kenai		✓	✓	✓
Janet Elizabeth Welch	3104 Brookside Dr	248-4525	✓	✓	

7:05 (1) Dave Walsh ✓ — all for it.

715 (2) Joyce Rivers att. ✓ — N.O.W. . OK; few concerns.

745 (3) Thad Bushnell ✓ Equal rts. for fathers in ct. — 7.3% JC

810 (4) Larry Carter ✓ = yes.

815 (5) William Fuld ✓ att. . favors Bill. will work on it. Gen. rec.

840 (6) Rudy Johnson ✓ yes PRES ERFF

907 (7) Jim Borden ✓ yes JC applied for now.

915 (8) Don Westerlin ✓

800 (9) Carla Huntington ✓ abused & aid in crisis . NO To presumption. prefer option.

Divorce does not mean divorce children.
Custody law is for "best interest of children".

(10) ~~Lorig~~

921 Bob HAMMER ✓ ERFF

930 Pat " ✓ ERFF

MSG 81-00004761 PRTY 1 11 20/81 14:54:17 ORIG: LL00 IN= 0004 OUT= 0048
FROM: DEE/SOLDOTNA TO: ANCH.
TARGET: LAH0 SUBJ: HOUSE HESS T/C 11/20/81 PAGE 0001

SOLDOTNA WILL HAVE;

JOAN BENNETT SCHRADER--BOX 1264 KENAI

(1)

Soldotna

Barrow

MSG 81-00004763 PRTY 1 11/20/81 15:16:17 ORIG: LR00 IN= 0004 OUT= 0002
FROM: FLORENCE IN BARROW TO: MICKI, ANCH T/C
TARGET: LAH2 SUBJ: PARTICIPANTS FOR T/C PAGE 000

THESE PEOPLE ARE HERE AND WOULD LIKE TO PARTICIPATE:
LINDA WINGENBACH, ALASKA LEGAL SERVICES, BOX 309, BARROW, AK 852-2311

(1)

HERE TO OBSERVE: LENA BAKER, FAMILY AND YOUTH SERVICES, DEPT. OF HEALTH AND SOCIAL SERVICES, NORTH SLOPE BOROUGH. BOX 69, BARROW, 852-5600. EXT.325

**********HELP**********
ANCHORAGE IS DRIFTING IN AND OUT OF BARROW'S LTN.
FAIRBANKS SOUNDED VERY LOUD BEFORE AND ANCHORAGE WAS WEAK AND I NOW HAVE IT UP TO 10 TO HEAR!!!'

MSG 81-00004766 PRTY 1 11/20/81 15:27:34 ORIG: LR00 IN= 0005 OUT= 0003
FROM: FLORENCE IN BARROW TO: MICKI,ANCH
TARGET: LAH2 SUBJ: PARTICIPANTS PAGE 000

STILL HAVING SOUND OF SPEAKERS DRIFTING IN VOLUME.

(2)

WILLIE WILLOYA, INUPIAT COMMUNITY OF THE ARCTIC SLOPE, BOX.437, BARROW, AK 852-2411

(3)

ALSO: JOHN HOLMES FROM ALASKA LEGAL SERVICES WILL BE HERE AT 3:00 AND WOULDLIKE TO TESTIFY. HE WON'T BE ABLE TO BE THERE UNTIL THEN BECAUSE OF WORK CONFLICT.

(4)

ALSO HERE IS: JANE NELSON, CLERK AT U.S. DISTRICT COURT, BOX 270, BARROW AK 852-4800, AND SHE WOULD LIKE TO OBSERVE AND MAY WANT TO PARTICIPATE.

MSG 81-00004797 PRTY 1 11/20/81 17:09:18 ORIG: LF00 IN= 0009 OUT= 0009
FROM: MAXINE/FBX TO: MICKI ANCH T/C
TARGET: LAH2 SUBJ: HOUSE HE.E.S.S T/C 1/20 PAGE 0001

FBX PARTICIPANTS CONT.

6. J. B. MATHEWS, 903 KOYOKUK N. FBX 99701 PH. 479-8380
7. CHARLOTTE HOK, BOX 81986, FBX 99708 PH. 479-2695
----TO BE CONT-----

MSG 81-00004790 PRTY 1 11/20/81 16:53:36 ORIG: LF00 IN= 0008 OUT= 0007
FROM: MAXINE/FBX TO: MICKI,ANCH T/C
TARGET: LAH2 SUBJ: H. HESS CMTE T/C 11/20 PAGE 0001

FBX PARTICIPANTS:

1. LARRY SWEET,1850 ROBERT RD, FBX 99701 PH. 479-6762
2. RUTH LISTER, 302 CHARLES ST., FBX 99701
3. DR. JUDITH B HARVEY, BOX 82254, COLLEGE 99708, PH 488 2335
4. KEITH E BUSCH, BOX 2556, FBX 99707 PH. 456-6336
5. VALERIE THERRIEN, 779-8TH AVE. FBX 99701 PH. 456-8113

---- TO BE CONTINUED----------

MSG 82-00004757 PRTY 1 01/29/82 14:43:24 ORIG: LF01 IN= 0005 OUT= 0001
FROM: ANNIE IN FAIRBANKS TO: JUNEAU T/C
TARGET: LJH9 SUBJ: HOUSE HESS/CHILD CUSTODY T/C 1/29/82 PAGE 0001

THE FOLLOWING WISH TO TESTIFY:
1. SHIRLEY R. DEAN, BOX 2541, FAIRBANKS 99701

2. CARLA SLAUGHTER TIMPONE, ALSKA COMMISSION ON THE STATUS OF WOMEN,
P. O. BOX 2541, FAIRBANKS 99707 456-1132

THESE PEOPLE CAME EARLY IN THE HOPES OF BEING ABLE TO SPEAK ASAP.

MSG 82-00004763 PRTY 1 01/29/82 14:58:13 ORIG: LR00 IN= 0006 OUT= 0002
FROM: FLORENCE IN BARROW TO: JACK AND JUNEAU T/C
TARGET: LJH9 SUBJ: PARTICIPANT PAGE 0001

JOHN HOLMES, REPRESENTING HIMSELF, BOX 309, BARROW AK.

I AM EXPECTING WILLIE WILLOYA, INUPIAT COMMUNITY OF THE ARCTIC SLOPE, BOX 437. HE WILL BE ARRIVING FROM ATQASUK ON THE PLANE DUE IN AROUND 1:30. I WILL LET YOU KNOW WHEN HE ARRIVES.

MSG 82-00004768 PRTY 1 01/29/82 15:01:43 ORIG: LR00 IN= 0007 OUT= 0007
FROM: FLORENCE IN BARROW TO: JUNEAU T/C
TARGET: LJH9 SUBJ: URGENT REQUEST! PAGE 0001

REGARDING OMNI # 4753!!!!! DID YOU RECEIVE IT AND DO YOU HAVE AN ANSWER????
PLEASE ACKNOWLEDGE!

MSG 82-00004772 PRTY 1 01/29/82 15:04:24 ORIG: LR00 IN= 0008 OUT= 0003
FROM: FLORENCE IN BARROW TO: JACK, JUNEAU T/C
TARGET: LJH9 SUBJ: OBSERVER PAGE 0001

MILDRED AKPIK, BARROW DISTRICT COURT, BOX 270, BARROW AK.

Rec'd

MAR 3 1981

file
HB 210

MSG 81-00006447 PRTY 1 03/02/81 15:40:00 ORIG: LF00 IN= 0006 OU = 0060
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: HOUSE HESS COMM. REPS. CLOCKSIN, CATO, DUNCAN, BEIRNE, AND MARTIN
HOUSE JUDICIARY; REPS. BROWN, CHUCKWUK, O'CONNELL
ALSO REPS. SMITH, FANNING, RANDOLPH AND BETTISWORTH
ALSO SENS. BENNETT, FAHRENKAMP, FERGUSON, FISCHER AND PARR

FROM: LARRY SWEET, 1850 ROBERTS ROAD, FAIRBANKS 99701 PHONE 479-6762

HOUSE BILL 210 BY ROGERS AND GARDINER ESTABLISHING AND FORMALIZING SHARED CUSTODY OF CHILDREN IS ONE OF THE MOST PROGRESSIVE BILLS TO BE INTRODUCED AND WILL HAVE SIGNIFICANT FAR RANGING POSITIVE EFFECTS ON CHILDREN, PARENTS, AND THE PROBLEM OF ADEQUATE CHILD SUPPORT.

PLEASE GIVE IT YOUR FULL SUPPORT.

Marko Lewis - Mom's House- Dad's House- Box 136- Ryder, Ak. 99923
Feb. 4, 1982

To HESS

The committee substitute for HB 210 does not serve the legislative intent for which it was designed. It in no statutory way encourages frequent and con' inuing and meaningful relationships between both parents and children after divorce, and instead of decreasing points for litigation, actually encourages litigation. It is no surprise that it encourages litigation- it was rewritten to please the legal community. The problem is that the legal community knows very little about child development or child psychology.

A recent California study by Everett Q. Pojman, Ph. D. "Emotional Adjustment of Boys in Sole Custody and Joint Custody Divorces Compared With Adjustment of Boys in Happy & Unhappy Marriages." shows that there is much better adjustment and psychological health in joint custody children than sole custody children. This is just one recent study of many which show similalar results. SHARED CUSTODY IS BETTER FOR CHILDREN.

Another study by Alexander and Ilfield in the American Journel of Psychiatry " Does Joint Custody Work? A First Look at Outcome Data of Reconciliation " shows that when joint custody is decreed by the court over the objection of one parent there are FEWER RELITIGATIONS RETURNING TO COURT THAN SOLE CUSTODY DECREES.

If HB 210 is to serve its intent it must SHOW A STATUATORY PREFERANCE FOR SHARED CUSTODY. IT MUST PLACE THE BURDEN OF PROOF ON A PARENT WHO WISHES TO DENY A CHILD EQUITABLE CONTACT WITH THE OTHER PARENT.

Marko Lewis- Mom's House-Dad's House- Box 136
Hyder, Alaska 99923 Feb. 5, 1982

I have reowrked the draft copy of the committee substitute to reflect these needs, by making a ~~mandatory~~ preferance for shared custody instead of a ~~rebuttable~~ presumption. I have also further clarified the definition of shared custody. I have added the 'Factors for consideration by the court' the words 'in its implementation'. If all these factors must be considered BEFORE an award of shared custody there will be more than ample factors for disagreement and litigation. The proper time to consider these factors is AFTER THE AWARD. I have also added a new section on parents leaving the state, more or less copied from a Wisconsin statute. This is necessary to keep a parent from circumventing a court order simply by leaving the state...and certainly such a big change should be cause for reconsideration of the mechanics of sharing or custody/visitation arrangements.

In conclusion, the committee substitute is a bad bill. It doesnot serve the legislative intent, it doesnot reflect the need of children to have a relationship with both parents, it doesnot do anything to lessen the liklihood of litigation. It does not presume that parents are equal before the law. It continues to assure lengthy and recurring litigation and the ultimate destruction of at least one parent-child bond. I oppose the subcommittee substitute as it now reads.

PROPOSED AMENDMENTS TO THE COMMITTEE SUBSTITUTE BY MARKO LEWIS.

IN THE HOUSE Proposed COMMITTEE SUBSTITUTE

HOUSE BILL NO. 210
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to child custody."

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

* Section 1. LEGISLATIVE INTENT. (a) The legislature finds that it is generally desirable to assure a minor child frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing. ~~While actual physical custody may not be practical or appropriate in all cases~~ delete, when appropriate ← add., it is the intent of the legislature that both parents have the opportunity to guide and nurture their child and to meet the needs of the child on an equal footing beyond the considerations of support or actual custody.

(b) The legislature also finds that it is in the best interests of a child to encourage parents to implement their own ~~child care~~ parenting agreements outside of the court setting. ← change word

* Sec. 2. AS 09.55.205 is repealed and reenacted to read:

Sec. 09.55.205. JUDGMENTS FOR CUSTODY (a) In an action for divorce or for legal separation the court may, if it has jurisdiction under AS 25.30.020 and is an appropriate forum under AS 25.30.050 and 25.30.060, during the pendency of the action, at the final hearing, and at any time thereafter during the minority of a child of the marriage, make an order for the custody of or visitation with the minor child which may seem necessary or proper and may at any time modify or vacate the order.

(b) Any appointment of a guardian ad litem for a child shall be made under AS 09.65.130.

(c) The court shall determine custody in accordance with the best interests of the child under AS 25.20.060 - 25.20.180. In determining the best interests of the child the court shall also consider

(1) the physical, emotional, mental, religious, and social needs of the child;

(2) the capability and desire of each parent to meet those needs;

(3) the preference of the child if sufficiently mature to express a preference;

(4) the love and parental

(5) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(6) the desire and ability of each parent to allow an open and loving relationship between the child and his other parent.

(7) the availability of offering the child a variety of life [illegible]

This is now worse than the present law - leaves the door open to judges to consider cultural etc. from a prejudicial standpoint

(d) In making an award of custody under AS 25.20.060 - 25.20.180 and this section, the court may not consider the conduct, marital status, income, social or cultural environment, or life style of either parent unless it is shown that the factor relates to the well being of the child. ← change to original HB 210 wording

This is unconstitutional as it now reads.

Sec. 3. AS 25.20.060 is amended to read:

Sec. 25.20.060. CUSTODY OF THE CHILD. If there is a dispute over child custody, either parent may petition the superior court for resolution of the matter under AS 25.20.060 - 25.20.180. The court shall award custody on the basis of the best interests of the child. In determining the best interests of the child, the court shall consider all relevant factors including those factors enumerated in AS 09.55.205(c). Neither parent, regardless of the question of the child's legitimacy, is entitled to preference in the awarding of custody.

* Sec. 4 AS 25.20 is amended by adding new sections to read:

Sec. 25. 20.070 Custody should be awarded in the following order of preference according to the best interests of the child:

(1) To both parents jointly. The court in its discretion may require the parents to submit a plan for implementation of the custody order. A parent may voluntarily submit a custody implementation plan to the court prior to issuance of a custody decree; a plan may be submitted individually or together with the other parent.

(2) To either parent. In making an order for custody to either parent the court shall consider, among other factors, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent. In the event that one parent requests joint custody and the other parent requests sole custody the burden of proof that joint custody would not be in the childs best interest shall be on the parent requesting sole custody.

(3) If to neither parent , to the person or persons in whose home the child has been living in a wholesome and stable environment.

(4) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

(5) For the purpose of assisting the court in making a determinntion whether an award of shardd custody is appropriate, the court may direct that an investigation be conducted.

(6) If the court declines to enter an award of shared custody the court shall state in its decision the reasons for a denial of shared custody.

Sec. 25.20.080. MEDIATION. The court considering a request for custody of a child may order the parties to participate in pre-trial mediation of the matters before the court pursuant to AS 09.55.115.

Sec. 25.20.090. MODIFICATION OF CUSTODY. An award of custody or visitation may be modified if the court determines that the best interests of the child require the modification of the award. If a parent opposes the modification of the award of custody or visitation, the court shall enter in the record its reason for modifying the award.

Sec. 25.20.100. PREFERENCE OF THE CHILD. If the child is of sufficient age and capacity to form an intelligent preference as to custody, the court may consider the preference of the child.

Sec. 25. 20. 110FACTORS FOR CONSIDERATION BY THE COURT. In an award of shared custody under AS 25.20.060– 25. 20. 180, the court shall consider in its implementation

(1) the needs of the child for frequent and continuing relationships with both parents

(2) the stability of the home environment likely to be offered by each parent

(3) the advantages of providing a varied life experiance for the child

(4) the quality and continuity of the education of the child

I changed order + wording to reflect a more logical sequance. Plain old "needs of the child" is to broad + is redundant.

(5) the optimal time for the child to spend with each parent considering

(A) the actual time spent with each parent;

(B) the proximity of each parent to the other and to the school in which the child is enrolled;

(C) the feasibility of travel between the parents;

(D) special needs unique to the child that may be better met by one parent than the other;

put this as (A?) ← ~~(E) which parent is more likely to encourage frequent and continuing contact with the other parent;~~ wrong place for this -

(6) the findings and recommendations of a neutral mediator where mediation is recommended by the court;

(7) other factors the court considers pertinent.

Sec. 25.20.130. TEMPORARY CUSTODY. Unless it is shown to be detrimental to the welfare of the child, the child shall have, to the greatest degree practical, equal access to both parents during the time that the court good considers an award of custody under AS 25.20.060 - 25.20.180.

Sec. 25.20.140. AWARD OF CUSTODY TO NONPARENT. The court may not award custody to a person who is not a parent of the child unless the court finds that an award of custody to a parent would be detrimental to the best interests of the child.

Sec. 25.20.150. CONFIDENTIALITY OF PROCEEDINGS. At any stage of the proceedings, if the court finds it is in the best interests of the marital estate or the child, it may close the hearings or order the court records good closed (except for statistical information required by law) or both, temporarily or permanently, and may modify or vacate the order at any time.

Sec. 25.20.160. ACCESS TO RECORDS OF THE CHILD. A parent who is not the parent granted custody under AS 25.20.060 - 25.20.180 may have access good to the medical, dental, school, and other records of the child notwithstanding any other provision of the law.

Sec. 25.20.170 NOTIFICATION OF PARENT LEAVING THE STATE. A custodial parent leaving the state for the purpose of setting up residance in another state must notify the court and the other parent 90 days prior to the date of departure so that the court may consider any necessary modifications in custody orders.

Sec. 25.20.180 DEFINITIONS. In AS 25.20.060-25.20.180 shared custody means shared phisical and legal custody. Shared phisical custody means an order awarding each parent or party significent periods of phisical custody. Shared phisical custody shall be divided in such a way so as to assure a child of frequent and continuing contact with both parents. Shared legal custody means that the parents or parties share, in a manner determined between them or by the court, the decision making rights, responsibilities, and authority relating to the health, education and welfare of a child.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

No Fiscal Note

Doc Some thoughts for you. Line up votes for CSHB 210 in Rules tomorrow. A good bill.

CS HB 210 (Rules) "An act relating to shared custody" is a bill which has the support (to lesser or greater degrees) of all the concerned interest groups. The Dept of H & SS, Alaska Bar Assn, Attorney General's office, and "Equal Rights for Fathers" have all expressed their support. An extensive list of factors to be considered by the court in determining the best interests of the child is enumerated. Joint custody - a concept which implies equal and fair treatment for both parents before the court - is given a slightly elevated status in this bill from current law. Currently, joint custody may be awarded by the court. This bill goes further and requires the judge to state on the record his reason for granting or denying a request for joint custody.

The CS reflects a bill which should have bi-partisan support - the original sponsor (Rogers) supports it. The original bill provided that there should be a "rebuttable presumption" that joint custody should be the option chosen by the judge. There was substantial opposition

from the Bar Assn and the AG's office. In response to this, the preference for joint custody was compromised to create a bill all parties could support.

The Rules amendment was designed in response to a "late" final role from the Court system. It provides that the parties would pay for mediation, if ordered. This bill encourages court sponsored mediation of child custody disputes.

There has been much work done on this bill although as it progressed through the H.E.S., Judiciary, and Rules Committees. We feel that a good product has resulted. I urge all caucus members to support this bill.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

AMENDMENT

OFFERED IN THE HOUSE: BY: Hurlbert + Rogers

TO: CS HOUSE BILL No. 210 (Rls)

SENATE BILL No. _____

PAGE: 3 LINE: 6-10

Delete lines 6-10. Replace with

Sec. 25.20.080. MEDIATION OF CUSTODY MATTER. (a) At any time within 30 days after a petition for child custody is filed under AS 25.20.060 the court shall order the parties to submit to mediation. Each party shall have the right to challenge peremptorily one mediator appointed.

(b) Mediation shall be conducted informally as a conference or series of conferences. The parties to the action and a court-appointed representative of the minor children shall attend.

(c) After the first conference either party may withdraw, or the mediator may terminate mediation if he determines that mediation efforts are unsuccessful. Upon withdrawal by either party or termination by the mediator, the mediator shall notify the court that mediation efforts have failed, and the custody proceeding shall proceed in the usual manner.

(d) Upon submission of the parties to mediation under this section, a pending child custody proceeding shall be stayed for a period of 30 days or until the court is notified that mediation efforts have failed. All court orders made during the pending custody proceeding remain in effect during the period of mediation.

(e) Costs of mediation shall be paid by one party or both parties as ordered by the court.

Judy

United States District Court

FOR THE

DISTRICT OF ALASKA

A82-003 CIV

EQUAL RIGHTS FOR FATHERS OF ALASKA, a Non-[illegible] CIVIL ACTION FILE NO.
poration, APRIL JOHNSON, a Minor and DARIN JOHNSON, a Minor, by and through their Father, Natural Guardian and Next Friend, RUDY L. JOHNSON, JOHN DOE CHILD, a Minor, MARY DOE CHILD, a Minor, by and through their Parent, Male Parent, Father, JOE DOE PARENT, JOHN DOE CHILDREN, Minors, Minor Children of various Parents, Male Parents, JOHN DOES AND MARY DOES, Minors, One through Five Hundred, Minor Children of John Does, Male Parents, One through Five Hundred, on behalf of themselves and their children and male parents similarly situated,

Plaintiff

v.

SUPERIOR COURT JUDGES, HON. VICTOR D. CARLSON, HON. KARL JOHNSTONE, HON. SUPERIOR COURT JUDGE LEWIS, HON. RALPH E. MOODY, HON. J. JUSTIN RIPLEY, HON. MARK ROWLAND, HON. BRIAN SHORTELL, HON. JAMES SINGLETON, HON. MILTON SOUTER, HON. FRANCIS STEVENS, COURT CUSTODY INVESTIGATOR, HON. ARDIS CRY, ASSISTANT COURT CUSTODY INVESTIGATOR, AND OTHER UNKNOWN DEFENDANTS,

Defendant

RECEIVED
JAN 14 1982
CHAMBERS OF
JUDGE SHORTELL
SUPERIOR COURT

SUMMONS

To the above named Defendant : Honorable Brian Shortell
303 "K" Street, Anchorage, Alaska 99501

You are hereby summoned and required to serve upon

Edward J. Winter, Jr.
Attorney At Law

plaintiff's attorney , whose address

19 West Flagler Street
Biscayne Bldg., #612
Miami, Florida 33130
(305) 371-5225

3605 Arctic #588
Anch. Ak 99503

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JoAnn Myres
Clerk of Court.

B. SHAFFER
Deputy Clerk.

JAN 11 1982

[Seal of Court]

This [illegible] is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

...S IN A CIVIL ACTION

United States District Court

FOR THE

DISTRICT OF ALASKA

A82-008 CIV

...AL RIGHTS FOR FATHERS OF ALASKA, a Non-...poration, APRIL JOHNSON, a Minor and DARIN JOHNSON, a Minor, by and through their Fat...r, Natural Guardian and Next Friend, RUDY L. JOHNSON, JOHN DOE CHILD, a Minor, MARY DOE CHILD, a Minor, by and through their Parent, Male Parent, Father, JOE DOE PARENT, JOHN DOE CHILDREN, Minors, Minor Children of various Parents, Male Parents, JOHN DOES AND MARY DOES, Minors, One through Five Hundred, Minor Children of John Does, Male Parents, One through Five Hundred, on behalf of themselves and their children and male parents similarly situated,

Plaintiff

v.

SUPERIOR COURT JUDGES, HON. VICTOR D. CARLSON, HON. KARL JOHNSTONE, HON. SUPERIOR COURT JUDGE LEWIS, HON. RALPH E. MOODY, HON. J. JUSTIN RIPLEY, HON. MARK ROWLAND, HON. BRIAN SHORTELL, HON. JAMES SINGLETON, HON. MILTON SOUTER, HON. FRANCIS STEVENS, COURT CUSTODY INVESTIGATOR, HON. ARDIS CRY, ASSISTANT COURT CUSTODY INVESTIGATOR, AND OTHER UNKNOWN DEFENDANTS,

Defendant

...CIVIL ACTION FILE NO.

SUMMONS

To the above named Defendant : Honorable Brian Shortell
303 "K" Street, Anchorage, Alaska 99501

You are hereby summoned and required to serve upon

...ard J. Winter, Jr.
Attorney At Law

plaintiff's attorney , whose address

~~19 West Flagler Street~~
~~Suite 812~~
~~Miami, Florida 33130~~
~~(305) 371-5225~~

3605 Arctic #558
Anchorage, AK
99503

an answer to the complaint which is herewith served upon you, within 20 ... of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JoAnn Myres

S. SHAFFER ...

...

JAN 11 1982

[Seal of Court]

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ALASKA

ANCHORAGE DIVISION

FILED

JAN 11 1982

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

EQUAL RIGHTS FOR FATHERS OF ALAKSA, a Non Profit Corporation, APRIL JOHNSON, a Minor and DARIN JOHNSON, a Minor, by and through their Father, Natural Guardian and next Friend, RUDY L. JOHNSON, JOE DOE CHILD, a minor, MARY DOE CHILD, a Minor, by and through their Parent, Male Parent, Father, JOE DOE PARENT, JOHN DOE CHILDREN, Minors, Minor Children of various Parents, Male Parents, JOHN DOES AND MARY DOES, Minors, One through Five Hundred, Minor Children of John Does, Male Parents, one through Five Hundred, on behalf of themselves and other children and male parents similarly situated, Plaintiffs, vs. SUPERIOR COURT JUDGES, HON. VICTOR D. CARLSON, HON. KARL JOHNSTONE, HON. SUPERIOR COURT JUDGE LEWIS, HON. RALPH E. MOODY, HON. J. JUSTIN RIPLEY, HON. MARK ROWLAND, HON. BRIAN SHORTELL, HON. JAMES SINGLETON, HON. MILTON SOUTER, HON. FRANCIS STEVENS, COURT CUSTODY INVESTIGATOR, HON. ARTIS CRY, ASSISTANT COURT CUSTODY INVESTIGATOR, AND OTHER UNKNOWN DEFENDANTS, Defendants.	CASE NO. DIVISION PLAINTIFFS' COMPLAINT and MEMORANDUM AND EXHIBITS IN SUPPORT THEREOF JUDICIAL NOTICE BRIEF and BRANDEIS BRIEF (SOCIAL BRIEF)

The Plaintiffs, parents and minor children, are all victims of the Domestic Relations Courts system of Alaska.

The Plaintiffs file their Complaint, and allege:

I

They are without relief save in this Honorable Court. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. §§1343 (3) and (4); and 28 U.S.C. §§ 2201 and 2202; and 42 U.S.C. §1983. Plaintiffs allege violation of rights secured and protected by due process and equal protection clauses of the Fourteenth Amendment. There is between the parties an actual controversy as set forth below. The unlawful actions occurred, and the records relevant to such actions are maintained in the State of Alaska.

This is an action for declaratory judgment and other relief, seeking relief related to court orders, decrees, judgments and precedents upon which judgments are based, which unlawfully deny fathers and their children the fundamental constitutionally protected right to a legal and personal relationship that is equal to the relationship accorded by these courts to the mother.

This is furthe an action pursuant to Rule 23(a) and (b), F.R.C.P., alleging both a class of Plaintiffs and a class of Defendants.

II

CLASS ACTION

The individual Plaintiffs are all citizens of the United States and residents of the State of Alaska.

They have all been involved as party litigants in divorce and/or custody proceedings in the court of original jurisdiction of the State of Alaska.

In each case a judgment, order or decree has been issued or entered by the Domestic Relations Court which denied the father and the children the fundamental constitutionally protected right to a personal and legal relationship that is equal to the relationship accorded by the court to their mother. (Fourteenth Amendment)

This is further an action pursuant to Rule 23(a) and (b), Federal Rules of Civil Procedure, as one seeking class-wide relief. Plaintiffs further show that: (1) the class of Plaintiffs and Defendants is so numerous that joinder of all members is impracticable; (2) there are questions of law or facts common to the class; (3) the claims of the representative party are typical of the claims of the class and (4) the representative party will fairly and adequately protect the interests of the class. The adult Plaintiffs are all fathers of the minor children Plaintiffs. This is a class action.

III

The Defendants are State Judges and Court Officials with the responsibility of enforcing and executing the statutory and case law pertaining to the parent-child relationship within the framework of United States and Alaska constitutional guarantees. It is the judgment, case law and decisions of these Defendants which are challenged as denying Plaintiff fathers and their children the fundamental, constitutionally protected right to a personal and legal relationship equal to the relationship accorded by the Defendants to the mother. The judgments are also challenged as being detrimental to the welfare and best interests of Plaintiffs' children.

As such, Defendants are alleged to constitute a proper class of Defendants within the meaning of Rule 23 (a) and (b), Federal Rules of Civil Procedure.

IV

The Defendants, acting under color of state law, case law decisions, judgments, orders, decrees and precedents of the State of Alaska, deny to the individual Plaintiffs and Plaintiffs' children a legal relationship equal to that accorded to the mothers. This is illegal and unconstitutional discrimination based on sex. The law forbids it and the statutes prohibit it.

Specifically, with regard to legal parental rights, duties and powers as defined in Alaska Law, the courts have, in each individual case:

A. Given the mother in each case the right to have physical possession of the children and to establish their legal domicile--to the exclusion of the father;

B. Given the mother in each case the duty of the care, control, protection and discipline of the children--except that the father may exercise such duties during the temporary period of possession of the children by the father (euphemistically referred to as "visitation");

C. Given the mother in each case the duty of providing the moral religious training of the children--to the exclusion of the father;

D. Given the mother in each case the duty of providing the children with clothing, food and shelter--except that the father may exercise such duties during the period of possession of the children by the father, during "visitations";

E. Required the father in each case to make periodic cash payments for the support of the children, but have not required such payments by the mother for this purpose (when in fact and in law there is an equal and co-equal duty to support);

F. Given the mother in each case the duty of providing the children with medical care and education--to the exclusion of the father (and the exclusive listing of her, the mother's name on school records);

G. Given the mother unfair and biased assumptions, pro[illegible]ties, practices and leanings by following a fictional "Tender Years" presumption or so called "Tender Years Doctrine".

H. Given the mother in each case the duty to manage the estate of the children--to the exclusion of the father;

I. Given the mother in each case the right to the services and earnings of the children--to the exclusion of the father;

J. Given the mother in each case the power to consent to marriage of the children--to the exclusion of the father;

K. Given the mother in each case the power to consent to enlistment by the children in the armed forces of the United States--to the exclusion of the father;

L. Given the mother in each case, regardless of whether an emergency exists, the power to consent to medical, psychiatric and surgical treatment of the children--except that the father may consent to medical and surgical treatment during an emergency involving an immediate danger to the health and safety of the children and only during the period of possession of the children by the father on "visitations";

M. Given the mother in each case the power to represent the children in legal actions and to make other decisions of substantial legal significance concerning the children--to the exclusion of the father;

N. Given the mother in each case the power to receive and give receipt for payments for the support of the children and to hold or disburse any funds for the benefit of the children--to the exclusion of the father;

O. Given the mother in each case the right to inherit from and through the children--to the exclusion of the father; and

P. Given the mother in each case any other right, privilege, duty or power existing between a parent and child by virtue of law-- to the exclusion of the father. The Defendants, under color of statutes, case law decisions and precedents of the State of Alaska, deny to the individual Plaintiffs and Plaintiffs' children a personal relationship equal to that accorded to the mother.

No showing has been made that fathers are unqualified or less qualified in any way to exercise paternal rights or carry out paternal responsibilities. In fact, all evidence is to the contrary.

No showing has been made that it is to the children's benefit to deny them a relationship with their father equal to that accorded to the mother. In fact, it is to their detriment.

There is a clear pattern to show that preferential treatment has been accorded to one sex - the female - without a showing that compelling state interests exist to warrant such treatment.

"Mother" is a verb, not a noun. Parenting is a gender class.

V

STATE ACTION

Defendants, jointly or independently, in enforcing the challenged statutes, [illegible] actions as state officials, depriving Plaintiff fathers and their children of a [illegible] constitutionally protected right to a personal relationship equal to

that accorded by such officials to the mother. "Parenting" is a father's right and a mother's right.

VI

Specifically, judgments issued by Defendants are violative of the Plaintiffs' and Plaintiffs' children's rights assured and protected by 28 U.S.C. §1343 (3) and (4), and U.S.C. §1983, as well as the due process and the equal protection clauses of the Fourteenth Amendment to the Constitution of the United States and the Alaska Constitution.

VII

Despite the fact that Plaintiffs-fathers possess parental qualifications equal to or superior to those possessed by the mother, they are consistently denied an equal relationship with their children--decisions clearly being patterned on the basis of sex (illegal sex discrimination).

VIII

The fathers and their children are given no reason by the courts for the actions depriving them of a parental relationship equal to that accorded the mother.

No compelling state interest has been shown, based on narrowly drawn legislative enactments reflecting these interests, that would serve to justify denial or restriction of this fundamental right held by these fathers and their children.

IX

The Plaintiffs and their children have no adequate remedy at law. The Plaintiffs have sustained and are presently sustaining grave and irreparable loss. Their children have sustained and are presently sustaining grave and irreparable injury by virtue of being deprived of a parent-child relationship with their father that is equal to that accorded to the mother, thus subjecting the children to continuing deprivation.

The Plaintiffs and their children have been deprived of fundamental rights protected by due process and equal protection clauses of the Fourteenth Amendment and the Alaska Constitution.

Redress to which the Plaintiffs are entitled by individually filed suits in the state courts would involve prohibitive expense to the individual Plaintiffs, as well as unnecessary waste of judicial time. Moreover, this action raises issues the resolution of which best lies with the United States District Court.

The Plaintiff Organization has made formal written demand upon the Attorney General of the State of Alaska, but he refuses to act. Therefore, acting in the best interests of the children, Plaintiffs have filed this class action lawsuit.

A copy of the "private attorney general demand letter" is attached hereto, and made a part hereof, Plaintiffs' Exhibit "A".

The "TENDER YEARS DOCTRINE" or the so called "TENDER YEARS PRESUMPTION" comes in various illegal forms and has prevailed for over a hundred years despite statutes, Court decisions and the Constitution which equalized parental rights and despite the Equal Protection of the Laws.

Whether articulated or not, the "Maternal Preference Doctrine" is the basis for and has been the illegal basis for child custody litigation awards for years.

We move the Court for an order taking judicial notice of this phenomenon. Watts v. Watts, 350 N Y S 2d 285, (1973) and the law of evidence, "Judicial Knowledge and Notice".

The "Battered Child Syndrome" has appeared on the American Family Scene, and this proves conclusively that the present system, traditional system of Sole Custody to Mother and Visitation to Father breeds and encourages and fosters child abuse by a custodial mother who is not equipped to handle such an overwhelming responsibility.

Sole custodial mothers abuse or neglect their children. Emotional child abuse is perhaps, some experts say, worse than physical child abuse. If non custodial fathers were given more fairness in divorce courts, then child abuse and child neglect would immediately drop.

There has been a growing awareness and recognition by child development experts that a father is as capable of "PARENTING" as a mother, and that he may be the one with whom the children have the most affectionate relationship.

The traditional sexual stereotypes are a fantasy. Most people in modern society generally accept this fact. In each contested custody case the specific facts should be examined to determine which custodian should be selected.

Despite the laws' commitment to equality, there still remains in Alaska a hard core of judges, Family Court personnel, Court Custody Investigators, and Staff Case Workers from Division of Family Services who are reluctant to award or recommend father custody except in the most extraordinary situations. This situation does NOT serve the welfare and best interests of children.

Plaintiffs also file this Complaint as a "Friend of the Court" or an "Amicus Curiae". They are entitled, on behalf of the affected minor children Plaintiffs, to proceed and be heard Amicus Curiae as a Friend of the Court, since the minor Plaintiffs have suffered at the hands of the Defendants and all other State Trial Judges who employ the "TENDER YEARS PRESUMPTION" in their rulings on child custody cases.

X

PRIVATE ATTORNEY GENERAL

The Adult Parents Plaintiffs are also proceeding as a Private Attorney General, since the Attorney General of the State of Alaska fails and refuses to act after formal written demand has been made upon his office.

Children are shortchanged every time a judge fails to consider the advantages and benefits of Joint Custody. The purposes expressed and set forth in Plaintiff's Charter and Articles of Incorporation are to support the rights of children to frequent access to their non custodial parent and to support the rights of the non custodial parent to frequent access to their children, and other purposes which are in the best interests of children.

Divorce and dissolution of marriage laws are supposed to be utilized by state judges to mitigate the potential harm to the children and spouse of a broken marriage. This lofty principle is ignored every time a judge fails to consider the "Rights of the Child" in child custody cases. It also falls by the wayside every time a judge fails to assure that Joint Custody or something approaching very closely to Joint Custody is ajudicated. Judges in Alaska have traditionally failed to assure frequent, meaningful and continued contact and access of parents (both parents) with children following divorce.

Therefore, it is a sad but true commentary of which this Honorable United States District Court can take Judicial Notice that State Trial Judges in Alaska have consistently failed and/or refused to act in the "Best Interests of the Child".

This situation cries out for relief. Custody and visitation are alleged to be, in the Women's Rights Movement, just about the last control women possess over men. This high class extortion or blackmail is not only sanctioned but encouraged by the Courts when they utilize the "TENDER YEARS DOCTRINE" or Maternal Preference, regardless of which label they place on it.

Discrimination on the basis of sex is illegal, no matter what label is placed on it. The Federal and State laws on the books, and the famous A.P.A. resolution from the American Psychological Association (Exhibit attached) have not been enforced by the Attorney General, State of Alaska. This Honorable Court is petitioned to enforce the Civil Rights laws and the Sex Discrimination laws. Plaintiff prays that this Court will enter its most gracious order, directed to all Alaska Superior Court Judges, enjoining and restraining them in the future, from utilizing, in any manner, any form of the "TENDER YEARS DOCTRINE" or Maternal Preference in Child Custody cases.

Joint custody, beyond question, will reduce child abuse, child neglect and child snatching. The frustration of both the custodial parent and the non-custodial parent will be greatly reduced with the abolition of the "TENDER YEARS PRESUMPTION."

If male parents are treated fairly, pursuant to law, and not discriminated against, then they will be assured of meaningful, frequent and continued contact and relationships with the children.

If female parents are ordered to share parenting duties, responsibilities and obligations with the male parent, then they will not suffer the overwhelming burden of sole parent custody and they will continue to share the child's life with the other parent.

Once fairness is brought into custody awards, child abuse, child neglect and child snatching will drop dramatically. So, therefore, this action is brought and prosecuted in the Public Interest and for the general welfare of society, pro bono publico.

The massive body of uncontradicted evidence is that it is in the best interests of children after a divorce to have frequent, meaningful and continued contact with both parents. Joint custody provides the best assurance of stability, continuity and continued access to both parents. Children retain both parents instead of losing one.

WHEREFORE, Plaintiffs pray for relief and move for the entry of emergency restraining orders and injunctions to all state domestic relations judges of the State of Alaska.

a. They further pray for the entry of an order directing and ordering the State of Alaska to immediately establish and enforce an "Affirmative Action Program" to correct these evils and right these insidious wrongs which have been perpetuated by the "Tender Years Doctrine."

b. Plaintiffs further pray for an order assigning this action to a Judge of the United States District Court sitting outside of Alaska, so that a fair and impartial hearing may be obtained by Plaintiffs and Defendants alike.

c. Plaintiffs also respectfully move for the entry of an order of Court directing the State of Alaska to pay $5 million to Equal Rights for Fathers of Alaska (ERFA) for the purpose of [illegible] ERFA study the devastating effects of Paternal Deprivation and Father absence on child development. This is sought under the provisions of Equal Protection of the Laws.

Plaintiffs pray for such other and further relief as is deemed just, including but not limited to an order of the United States District Court enjoining and restraining Alaska State Judges from utilizing the "TENDER YEARS DOCTRINE", in any manner, directly or indirectly, in domestic cases, dissolutions of marriage, adoptions, and child custody cases.

Dated: 29 December 1981

EDWARD J. WINTER, JR.
Attorney at Law
Counsel for Plaintiffs
19 West Flagler Street
Biscayne Building #612
Miami, Florida 33130
(305) 371-5225

Mr. E.J. Winter, Jr.
January 4, 1979
Enclosure #1

NEWS AMERICAN PSYCHOLOGICAL ASSOCIATION

2/1/77

PSYCHOLOGISTS OPPOSE DISCRIMINATION AGAINST MEN

IN CUSTODY AND ADOPTION CASES

The Council of Representatives, the policy-making body, of the American Psychological Association (APA) at its January 1977 meeting voted to oppose discrimination against men in custody and adoption cases.

The text of the policy statement follows:

> "Be it resolved that the Council of Representatives recognizes officially and makes suitable promulgation of the fact that it is scientifically and psychologically baseless, as well as in violation of human rights to discriminate against men because of their sex in assignment of children's custody, in adoption, in the staffing of child-care services, in personnel practices providing for parental leave in relation to childbirth and emergencies involving children, and in similar laws and practices. Further, it is recommended that suitable promulgation of the resolution (with the paragraphs providing the rationale) include specific mailing to the Chief Justice of the United States Supreme Court in his capacity as the chief administrative officer of the Federal court system, to the presiding judges of the various state court systems, to the Attorney General of the United States, and to the Attorneys General of the several states."

PLAINTIFFS' EXHIBIT 1

Contact: [illegible] Olsen (202) 833-7684 1200 17th St., N.W., Washington, D.C. 20036

ADDITIONAL FACTS FOR JUDICIAL NOTICE

PLAINTIFFS respectfully request the Court to take Judicial Knowledge of the fact that:

1. U.S. Government Uniform Crime Statistics from the F.B.I. consistently, year after year, prove that a child raised or brought up in a fatherless home is far more likely to commit crime or anti-social behavior.

2. The American Psychological Association passed the attached statement as its official resolution.

CREDIT FOR PUBLICATION:

3. We credit Dr. Ken Lewis, Child Custody Evaluation Services of Philadelphia, Glenside, Pennsylvania, with the statement, "Mother is a verb, not a noun," and we gratefully acknowledge his enormously valuable contributions to the field of childrens' rights. As one of the country's leading professionals in child custody and child development, Dr. Lewis, through his professional contributions, has assisted Courts in many states when they were called upon to make child custody placement orders.

4. The former Department of H.E.W. gave $5 Million to N.O. W., but refused, even after written demand was made, to grant or appropriate a similar $5 Million to Men's Liberation. This was a gross and shocking violation of the Equal Protection of the laws as well as the laws prohibiting sex discrimination.

5. Private Attorney General: When the Attorney General of a state fails or refuses to act, after proper written demand, a private citizen, or a group, may, in the public interest, act as a private Attorney General, pro bono publico.

NOTICE OF RIGHT TO CONSENT TO DISPOSITION
OF A CIVIL CASE BY UNITED STATES MAGISTRATE
[illegible] BY APPEAL ROUTE

The Federal Magistrates Act of 1979, P.L. 96-82, requires that the Clerk of Court notify all parties in each civil action when filed that they may consent to have said case tried before a United States Magistrate. If all parties so consent, and the Court so orders, the matter will be referred to a magistrate for disposition.

Judgments of the United States Magistrate in civil actions are appealable to the United States Court of Appeals, in accordance with this statute and the Federal Rules of Appellate Procedure, unless the parties at the time of their consent to trial before a magistrate agree upon review by the United States District Court.

The plaintiff (or counsel) has received a consent form, the same as the one attached. If the parties agree to trial before a magistrate and route of appeal, plaintiff (or counsel) shall have all the parties (or counsel) execute the consent form and file it with the Clerk, within twenty (20) days after the defendant(s) are required to file their answer(s).**

The consent form is not required to be executed or returned to the Clerk of the Court unless all parties voluntarily consent to this procedure. If an executed consent form is not received by the Clerk within twenty (20) days after the defendants are required to file their answers, this case will proceed to disposition before the United States District Court in the normal fashion.

JOAN MYERS
CLERK OF COURT

**NOTE FOR REMOVALS FROM STATE COURT
Consent must be executed and filed with the Clerk within thirty (30) days after notification of removal.

USDCA Form 267c

IN THE UNITED STATES DIS .ICT COURT

FOR THE DISTRICT OF ALASKA

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)
)
_____)

Case No._____

C O N S E N T

We, all the parties to this action, consent to reference of this case to a United States Magistrate for all further proceedings and final disposition.

Plaintiff(s)	Date	Defendant(s)	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

IT IS FURTHER AGREED that the route of appeal, if any, in this matter shall be:

(1) directly to the Ninth Circuit Court of Appeals _____

(2) to a Judge of the United States District Court for the District of Alaska _____

(NOTE: In any matter appealed to a District Court Judge, any subsequent appeal to the Circuit Court is permitted only upon petition for leave to appeal.)

PLAINTIFF(S)	DATE	DEFENDANT(S)	DATE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Reference to a U. S. Magistrate IS SO ORDERED, this _____ day of _____, 19____.

_____
UNITED STATES DISTRICT COURT JUDGE

USDC Form 287

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

CS FOR HOUSE BILL NO. 210 (HESS)

"An Act relating to child custody."

CS for House Bill No. 210 (HESS) provides a statutory basis for shared custody in judgements for custody. The Department feels the Committee Substitute improves on the original Bill. However, we would still question the language in Section 09.55.205(c) due to the deletion of the phrase, "all relevant factors include." This deletion seems to imply that the court's considerations are limited to those factors delineated in the section. It is felt that in the best interests of the child "all relevant factors" should be considered.

In addition, the Department would recommend that the definition of shared custody not necessarily include physical custody. This stems from the concept that, whenever possible, shared physical custody, as well as legal custody, is beneficial but recognizes that shared physical custody is not always possible.

RECOMMENDED BY: John R. Pugh

John R. Pugh, Director
Division of Family and
Youth Services

DATE: 1/29/82

APPROVED BY: Helen D. Beirne

Helen D. Beirne
Commissioner

DATE: 3-10-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for House Bill No. 210 (HESS)
Title "An Act relating to child custody."
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected _____
BRU, Program, Or Subprogram(s) Affected _____
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

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

CS or House Bill No. 210 (HESS) has no fiscal impact on the Department of Health and Social Services.

IV. DATE 1/28/82 PREPARED BY John R. Pugh, Director
AGENCY Division of Family and Youth Services
PHONE 465-3170

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

fcc

POSITION PAPER/Department of Health & Social Services

Note → Illo this position paper deals w/ original bill, is good for conceptual understanding

POSITION PAPER

HOUSE BILL NO. 210

"An Act relating to child custody."

House Bill No. 210 proposes changes to the existing child custody statutes by providing for shared custody. Current statute provides for awarding custody on the basis of the best interest of the child, and states that neither parent is entitled to preference in awarding custody.

Proponents of this Bill argue that despite the fact that the current statute does not give preference to either parent, judges and attorneys continue to give preference to mothers both in the actual awarding of custody by judges, and in advice given to the divorcing parties by attorneys prior to a court appearance. Some consequences of the present imbalance in the current situation include child stealing, the refusal of one parent to allow the child to have contact with the other parent, and, in some cases, being held hostage by one parent, the refusal of the other parent to then provide support when so ordered, not to mention the emotional anguish the child experiences.

It is claimed that if shared custody were presumed to be in the best interest of the child, not only would judges be required to consider shared custody, but attorneys, and the divorcing parties themselves, would be required to consider ways of implementing shared custody prior to the court hearing.

The first question in considering this Bill is whether the concept of shared custody is good social policy; that is, is it in the best interest of the child? A review of the literature in the last 20 years indicates the importance of both parents to a child's development, and shows the profound trauma divorce has on all parties involved, but perhaps most disastrously on children. One study reports that children of divorce are referred for out-patient psychiatric evaluation at nearly twice the occurrence in the general population. There is general agreement in the field of social work and family therapy that children need continuity in their relations, and that a child will suffer less from a divorce if he can continue to have a relationship with each parent. As one author said, "Divorce does not end relationships in post-divorce families, it changes them...joint custody is a concept that provides a better opportunity for the children to maintain a close relationship with each parent and, thus, gain the benefit of two separate but interdependent homes."

What is shared custody, and what does it take for it to be successful? Custody means having possession, power, authority, and responsibility for a person. Shared, or joint, custody maintains both parents' legal responsibility for the child's upbringing, sharing as equally as possible the authority and responsibility for the decisions that significantly affect the life of their child. It may or may not include shared physical custody, and it can take many different forms or arrangements, since it requires the parents to negotiate an agreement as to the care of the child.

In order for shared custody to be successful, many writers agree that the following conditions must be present:

1. Former spouses, despite their continuing differences, must be able to communicate about parenting and must be able to negotiate agreements about the child's health, education, and welfare. (Both experience and studies have shown this is possible.)

POSITION PAPER/Department of Health & Social Services

2. Geographical proximity, or logistical ways of sharing parenting must be arranged.

3. The children must be agreeable to shared parenting.

4. No other major contraindications must be present. Examples of valid contraindications include, but are not limited to, physical or sexual abuse or assault of the child or of one former spouse by the other, unless there is evidence of rehabilitation.

While the Department strongly supports the concept of shared custody, there are a few problems with this Bill, as drafted:

1. Page 2, Lines 2-23: There is a list of considerations for the court to use in determining the best interests of the child. The Department questions if this is an all-inclusive list, or is there leeway for a judge to consider some other factors, if found to be relevant in a particular case?

2. Page 3, Lines 7-10: Because shared custody requires that an agreement be reached between the parents, there should only be a presumption of shared custody if the parents agree. However, a court should also have the authority to order shared custody when the judge decides that it is in the best interests of the child after hearing testimony from parents who are not requesting it. Therefore, the Department would recommend inserting "and the parties agree" on line 8 after the word "state."

3. The Department recommends the deletion of Section 25.20.130, "Preferences on Award," Lines 3-23. The Department disagrees with the premise that this order of preference would necessarily be in the best interest of the child.

4. The Department would recommend that the definition of shared custody be limited to legal custody, and not necessarily include physical custody. This is in the belief that, wherever possible, shared physical custody, as well as legal custody, is beneficial but recognizes that shared physical custody is not always possible.

RECOMMENDED BY: John R. Pugh, Director
Division of Family and Youth Services

DATE: 1/26/82

APPROVED BY: Helen D. Beirne
Commissioner

DATE: 1/29/82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 210
Title "An Act relating to child custody."
Requested by Rogers and Gardiner Date

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Social Services
BRU, Program, Or Subprogram(s) Affected Juvenile Custody
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars,

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

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

House Bill No. 210 has no fiscal impact on the Department of Health and Social Services.

IV. DATE 11/26/82 PREPARED BY John R. Pugh, Director
AGENCY Division of Family and Youth Services
PHONE 465-3170

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
JJ-001 (Rev. 12/81)

cc

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 210 (HESS)
Title "An act relating to child custody."
Requested by Repr. Barnes, House Judiciary Date March 9, 1982

II. FISCAL DETAIL
Agency Affected Department of Law
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legal Services
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

This bill involves child custody upon the separation of parents or the dissolution of a marriage which is a matter between private parties and it will therefore not have a fiscal impact on any of the department's activities.

IV. DATE March 9, 1982 PREPARED BY Richard I. Pegues, Director, Admin. Svcs
AGENCY Department of Law
PHONE 465-3672

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 210
Title An Act Relating to Child Custody
Requested by House Judiciary Committee Date 3/3/82

II. FISCAL DETAIL
Agency Affected Alaska Court System
Program Category Affected Trial Courts
BRU, Program, Or Subprogram(s) Affected
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 3/3/82 PREPARED BY Richard P. Barrier RPB
AGENCY Alaska Court System
PHONE 264-0545

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
JJ-001 (Rev. 12/81)

Administrator for Don Copeland.

CHILD SUPPORT ENFORCEMENT: ALASKA'S PROGRAM IN PERSPECTIVE

House Research Agency
Alaska State Legislature
January 1981

House Research Agency Report 80-7

CHILD SUPPORT ENFORCEMENT:
ALASKA'S PROGRAM IN PERSPECTIVE

Christine Johnson
House Research Agency
Alaska State Legislature
January 30, 1981

House Research Agency Report 80-7

PREFACE

This report on child support enforcement was prepared by the House Research Agency at the request of Senator Dick Eliason and Representative Mike Miller. The report is primarily descriptive. It is designed to introduce legislators to the national support enforcement program, the complexities of case enforcement, the costs of enforcement, and Alaska's enforcement success to date. The report is not intended to be a comprehensive analysis or evaluation of the Child Support Enforcement Agency, nor does it contain any specific recommendations.

Throughout the report, the non-custodial parent (obligor) is always referred to as the father rather than the mother. In some instances, the mother may be the absent parent responsible for child support. However, both nationally and in Alaska, this is only rarely the case.

TABLE OF CONTENTS

SUMMARY OF FINDINGS

National Child Support Enforcement Program

- Alaska's child support enforcement program is part of a national child support collection effort directed by the federal government. There is currently a support enforcement program in each of the states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

- The national enforcement program was enacted in January of 1975. Its primary objective is to reduce the incidence of poverty among children who are supported only by their mother, and consequently, to reduce the welfare expenditures for these children.

- Each state is required to establish a separate agency to enforce payment of child support for both welfare and non-welfare families. States which do not comply or do not meet federal program effectiveness standards will lose 5% of the federal funding for their Aid to Families with Dependent Children program.

- The national enforcement program requires that all applicants for AFDC cooperate in locating the absent parent of their children and in establishing the paternity of the children, if that should be necessary. This requirement may be waived if enforcing payment of support or establishing paternity would result in physical or psychological harm to the family. Enforcement services are provided for non-welfare families upon request.

- The federal government pays 75% of the costs incurred by states to operate child support enforcement agencies. States are responsible for the remaining 25% of enforcement costs.

- Child support collected for non-AFDC families is forwarded directly to the family. However, support money collected for families on AFDC is retained by local support enforcement agencies, unless the amount is sufficient to make the family ineligible for public assistance. Alaska's Child Support Enforcement Agency estimates that enough support is collected to make the family ineligible for AFDC in less than five AFDC cases per month. Nationally, about 5% of the money collected in AFDC cases is distributed to the family.

- Money which is retained by local enforcement agencies is divided between the state and the federal government according to their contribution to local AFDC program financing. In Alaska, the State and the federal government each receive 50% of AFDC collections.

- States also receive "incentive payments' for collecting child support on behalf of AFDC families living in other states. The incentive payment equals 15% of the federal government's share of money collected for these families.

Alaska's Enforcement Program

- Alaska's Child Support Enforcement Agency was created by the Legislature in 1976. It is currently located in the Department of Revenue, and has 63 full-time employees. Since October 1, 1976, when the Agency began operation, a total of $6.5 million has been spent on enforcement. The federal government has contributed $4.9 million of this money, and $1.6 million was supplied from the State's General Fund.

- During federal fiscal year 1980 (10/1/79 - 9/30/80), the total expenditure for the Child Support Enforcement Agency was $2.2 million, $1.7 million in federal money and $.5 million in State dollars. The State's actual expenditure was less than this, however. The State recovered $0.63 of every dollar it expended through 1) incentive payments and 2) retention of AFDC collections. By the end of federal fiscal year 1980, the net cost to the State of operating a child support enforcement program for that year was $.2 million.

- As can be seen on the following table, a total of 16,800 cases were registered with the Child Support Enforcement Agency as of September 30, 1980. Almost 90% of these cases represent an Alaskan family. Using the Agency's estimate that each case includes one adult and two children, approximately 30,000 Alaskan children were participating in the State's enforcement program on that date. see p. 6 33,264

Child Support Enforcement Agency Caseload
As of September 30, 1980

	Alaskan Family Alaskan Father	Alaskan Family Non-Alaskan Father	Non-Alaskan Family Alaskan Father	Total
AFDC	10,561	168	845	11,574 (69%)
Non-AFDC	3,787	301	1,172	5,260 (31%)
All Cases	14,348 (85%)	469 (3%)	2,017 (12%)	16,834 (100%)

Source: Child Support Enforcement Agency

- The Child Support Enforcement Agency estimates that the average monthly support obligation for its cases is $165 for two children, or $82.50 per child.

- The Child Support Enforcement Agency's responsibilities include locating absent parents who are not contributing to their children's support, establishing the paternity of children born out-of-wedlock, establishing child support orders, and enforcing these orders.

- The Child Support Enforcement Agency must have a child support order in hand before it can collect any support money. Most child support orders are obtained from a judge at the time of a divorce. However, orders do not usually exist if the parents of the child are separated, but not divorced, or if they never married. As of September 30, 1980, 9,800 of the cases registered with the Agency did not have a support order.

- It takes approximately 6 months to obtain a support order through the courts. Beginning this year, the Agency will be able to administratively establish orders in some circumstances. This should reduce the time it takes to obtain an order to three months. However, even at this rate, it may take several years for the Agency to obtain orders for all existing cases, due to the number of cases without orders.

- Illegitimate children have the same right to support from their parents as do children who are born in-wedlock. However, a man cannot be compelled to contribute to the support of an out-of-wedlock child until the paternity of that child has been legally established. Paternity must be established in approximately one-third, 2,800, of the Agency's cases currently without a child support order.

- The Child Support Enforcement Agency has authority to initiate two kinds of collection action without going into court: 1) assertion of a lien against an obligor's property; and 2) garnishment of a portion of his wages. Currently, however, neither of these collection remedies is an efficient way of initiating regular payments between the obligor and his children.

Effectiveness of the State Enforcement Program

- A child support enforcement agency's collections are the primary measure of its performance. However, before any support money can be collected, the Agency is forced to spend a significant portion of its time obtaining support orders and establishing paternity. Therefore, the Agency's collections alone do not adequately reflect its overall productivity.

SUMMARY OF FINDINGS

- In federal fiscal year 1980, the Child Support Enforcement Agency's collections totaled $5.9 million. This represents almost $1 million more than was collected during fiscal year 1979. The summary table below shows the distribution of the money collected in fiscal year 1980.

Child Support Enforcement Agency--Child Support Collections
Federal FY 80 (thousands)

	Alaskan Family Alaskan Father		Alaskan Family Non-Alaskan Father		Non-Alaskan Family Alaskan Father		Total	
AFDC	454.1	8%	103.0	2%	539.5	9%	1,096.6	19%
Non-AFDC	3,856.1	65%	221.0	4%	759.3	13%	4,836.4	82%
Total	4,310.2	73%	324.0	6%	1,298.8	22%	5,933.0	100%

- By September 30,1980, the Child Support Enforcement Agency was collecting support money for roughly one-third of its cases with support orders, or 12.7% of its total caseload. Using the Agency's estimated average of two children per case, child support was collected for 6,264 children, 1,000 welfare children and 3,264 non-welfare children. However, no money was collected for more than 29,000 children, 9,730 of whom have a child support order.

The $5.9 million collected during fiscal year 1980 represents only 6% of the child support owed. By September 30, 1980, unpaid child support for the Agency's clients amounted to $9.7 million for welfare families and $15.2 million for non-welfare families, a total of $24.9 million. These numbers represent arrearages only for cases which have a support order, roughly 42 % of the Agency's caseload. Significantly, more money is owed for support of children who do not yet have a support order. Arrearages for all the Agency's clients may be as high as $65.9 million.

- During fiscal year 1980, the amount of child support in arrears grew by $4 million. By the end of the fiscal year, the average arrearage per case was $3,500. Approximately 48% of the Agency's caseload had not received any support money in over a year, 24% in over three years.

- The collection success of Alaska's Child Support Enforcement Agency compares favorably to other states'. Although Alaska ranks 50th among the states in population, in fiscal year 1979 it ranked 23rd nationally in the total amount of support collected.

- Compared to other states, Alaska has a fairly cost-efficient enforcement program. Alaska ranked in the top twenty states nationally in the dollar amount collected per dollar of program cost.

INTRODUCTION TO CHILD SUPPORT ENFORCEMENT

Perhaps the first question to be raised when discussing child support enforcement is why public dollars are spent to pursue payment of a private debt. Traditionally, disagreements over money owed to one private party by another are resolved through the courts at private cost. Policy makers have made the decision to enforce payment of child support at public expense for three principal reasons. First, child support payments can reduce the high incidence of poverty among children who live only with their mothers. Second, they provide a means of reducing the present welfare expenditure for these children. And third, without a publicly funded enforcement program, payment of child support is less likely to be enforced. In most instances, the families who are owed support cannot afford the cost of going to court everytime the absent parent stops making payments.

The number of children living only with their mother more than doubled between 1960 and 1978, increasing by about 5.6 million. By 1978, 18% of all children were in mother headed homes. Many factors have contributed to this:

- increase in the number of women of child bearing age;
- liberalization of divorce laws;
- growing societal acceptance of divorce;
- increase in the frequency of divorce when children are present;
- increase in the incidence of children born out-of-wedock;
- increase in the proportion of never-married and formerly; married women heading their own households rather than living as a sub-unit in someone else's household.

Recent census data show that a only a small proportion of the children in these female headed households are living with their mother because

their father is deceased. The majority of children in mother headed families have another parent living elsewhere who could be contributing to their support. By law, non-custodial parents must contribute to the support of their children even when a divorce has not been finalized, or when the children were born out-of-wedlock.

TABLE 1
Children Living in Mother Headed Households
By Marital Status of Mother
1978
(thousands)

Children living with mother only					
Mother Never married	Mother Separated	Mother Divorced	Mother Widowed	Other*	Total
1,643	2,920	4,320	1,278	548	10,709
15%	27%	40%	12%	5%	100%

*Mother and father married but living apart because father employed elsewhere.

Source: House Research Agency, 1/27/81, from data reported in U.S. Department of Commerce, Bureau of the Census, "Divorce, Child Custody, and Child Support," Special Studies, Series P-23, No.84, June 1979.

Roughly one-third of all families maintained by women are living below the poverty level. Women and their children are the fastest growing poverty class, a trend which has been dubbed the "feminization of poverty." Almost ninety percent of the families living on AFDC, the largest cash assistance program for needy individuals, are woman headed households.

Child support payments contribute significantly to the economic self-sufficiency of households supported by women. According to recent

census data, female headed families who received child support in 1978 were less likely to be below the poverty level than female headed families who did not receive any support money. Even so, however, about 15 percent of the households who did receive support in 1978 were below the poverty level.

Clearly, enforcement of child support obligations may improve the economic status of families maintained by women, even though it is unlikely to be a panacea for all their financial problems.

THE NATIONAL CHILD SUPPORT ENFORCEMENT PROGRAM

The child support enforcement program in Alaska is part of a national child support collection effort directed by the federal government. There is currently a locally run enforcement program in each of the states, the District of Columbia, Puerto Rico, Guam and the Virgin Islands. The local programs are the primary enforcers of child support obligations, but can receive assistance from the federal government in tracking down and prosecuting obligors. In each state and locality, enforcement activity is conducted according to the policies and procedures established by local law. However, in order to receive federal funding, local enforcement programs must meet performance standards, and organization and staffing requirements set by the federal Office of Child Support Enforcement.

Success of the National Enforcement Program

The national enforcement program began operation in federal fiscal year 1976. During federal FY 79, over $1 billion in child support was collected, compared to $500 million in federal FY 76. Nationally, for every dollar spent on enforcement, $ 3.72 in support money was collected.

Child support collected for non-welfare families is forwarded directly to the family. Support money collected for families receiving welfare is retained by local child support enforcement agencies, unless the amount is sufficient to make the family ineligible for public assistance. Money which is retained is then divided between the state and the federal government according to their contribution to local welfare program financing.

Of the child support collected in federal FY 79, approximately $750 million was disbursed directly to families, while roughly $550 million was retained to reimburse state and federal welfare expenditures. Consequently, the states and the federal government recovered $1.58 for every dollar they spent, recouping all of their administrative costs in addition to $208.9 million with which to offset their welfare expenditures.

Development of the National Program

The first impetus for a national child support enforcement program came in the late 1940's, largely to check the growing number of children supported by welfare. Congressional and state leaders observed that national welfare programs had been steadily expanding with children who needed public assistance because their father had abandoned the family. Assistance programs for children without fathers had been in existence since the Social Security Act of 1935; however, it was difficult initially for abandoned children to qualify for benefits. Programs were structured so that an extensive waiting period was necessary before program staff could certify that a father was actually absent from the home. Illegitimate children were categorically excluded from receiving benefits. These restrictions were removed during the 1940's and the number of children enrolled in welfare programs grew continuously over that decade.

In 1950, both Congress and the states acted to enforce absent parents' legal obligation to support their offspring. The federal Aid to Dependent Children program (ADC) was amended by Congress to include what is called the MOLEO provision--Notification of Law Enforcement Officers. Under MOLEO, states could not continue to receive federal money for their Aid to Dependent Children programs unless local prosecuters were promptly notified whenever ADC benefits were provided to children who

had been deserted by a parent. Proponents of NOLEO envisioned that prosecutors, once notified, would collect support money from absent parents, and the children would be eliminated from the welfare rolls.[1]

At the state level, NOLEO was complimented by the Uniform Reciprocal Enforcement of Support Act (URESA) which was developed in 1950 by the National Conference on Uniform State Laws. URESA was intended to simplify interstate child support enforcement, which had been such a cumbersome process that obligors could easily evade support responsibilities by moving away from their children's state of residence. Some form of URESA was rapidly incorporated into state statutes nationwide. The original provisions were expanded upon in 1952, 1958 and 1968, but the Act has remained fundamentally the same. (The 1968 revisions resulted in RURESA, the Revised Uniform Reciprocal Enforcement of Support Act, although the acronym URESA is still more commonly used.) To date, every state, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and Canada have enacted some form of URESA. (Alaska adopted URESA provisions in 1953.)

In 1967, Congress took further action to collect support on behalf of children enrolled in the Aid to Families with Dependent Children Program. (AFDC had replaced ADC by this time.) Because child support cannot be collected for children born out-of-wedlock until paternity has been determined, the new legislation required the state welfare agencies to set up a separate unit to establish the paternity of illegitimate welfare children. States were eligible for some federal

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[1]Some have objected that women who need public assistance for their families have not had the right to decide privately whether or not to take legal action against the fathers of their children since NOLEO was enacted. (See Judith Cassetty, Child Support and Public Policy, Lexington, Massachusetts: D.C. Heath and Co., 1978.)

money for this new program. To assist in locating absent parents, Congress permitted access to records of the Social Security Administration, and (providing there was a court order) to records of the Internal Revenue Service.

The existing national child support enforcement program was enacted by Congress in January 1975 as Title IV-D of the Social Security Act. The legislation was developed by the U.S. Senate Finance Committee in response to three recent findings. First, according to census data released during the early 1970's, the number of children being supported only by their mother was steadily climbing, as was the incidence of poverty among these children. Naturally, the amount of welfare needed to support these children was steadily increasing, as well. By 1974, more than half of the children in homes where only the mother was present were living below the poverty level. Almost 10 percent of all the children in the country were on AFDC, and the annual cost of that program was increasing by about one billion dollars each year. Second, it was apparent that prior efforts at enforcement of child support had not been sufficient to check the rising poverty rate among mother only families, or to reduce their dependency on AFDC. Third, the few states with extensive enforcement programs, e.g., Michigan, California, Washington, were successful in collecting support, and were able to offset some portion of their welfare costs.

The national child support enforcement program developed in 1975 built on NOLEO, URESA, and the revisions of the 1967 reform. The federal government increased its funding for local enforcement programs, and expanded their responsibilities. In addition, the federal government offered states additional direct assistance in locating absent parents and collecting money from them. The Child Support Enforcement Act has been amended several times since its passage. In the following section,

the major provisions of the legislation are summarized. A copy of Title IV-D is attached to this paper as Appendix B.

Requirements for Program Participants

1. Families who apply for AFDC must assign their right to support to the State, so that the Child Support Enforcement Agency has legal authority to pursue payment of the debt.

2. Applicants for AFDC must cooperate in locating the absent parent and determining paternity in order to receive an AFDC grant for themselves as well as for their children. This means that the custodial parent must name the absent parent, assist in locating him, and act as a witness if it should be necessary. The requirement that the custodial parent cooperate may be waived by the Division of Public Assistance if enforcing support or establishing paternity would not be in the best interest of the child, or would result in physical or psychological harm to the family. (This waiver is generally referred to as a "good cause waiver.")

3. Non-welfare families may be required to pay for enforcement services.

Requirements for States

1. A separate organizational unit must be set up to collect child support and establish paternity.

2. States must participate financially in their local child support enforcement program.

3. Payment of child support must be enforced in all political subdivisions of the State.

4. Enforcement services must be provided to both welfare and non-welfare families.

5. The State must retain support money collected for an AFDC family unless the amount collected is sufficient to take the family off welfare, in which case the money is disbursed to them. Any money retained is divided between the State and Federal governments proportionate to their participation in local AFDC financing. (In Alaska, each receives 50% of an AFDC collection.)

6. The State must cooperate with other states in interstate enforcement and establishment of paternity.

7. States which do not run an effective program according to standards set by the national child support enforcement office, will lose 5% of their federal matching funds for AFDC.

Requirements for the Federal Government

1. A national child support enforcement office must be established in the Department of Health and Human Services to set standards for state programs, perform annual audits, and provide technical assistance.

2. A Parent Locator Service shall be conducted to retrieve information for states from federal data sources such as the Social Security Administration and the Civil Service Commission.

3. The Internal Revenue Service is authorized, through 1980, to use its collection mechanisms to collect delinquent child support provided all other enforcement methods have been tried. (The state requesting this service must pay the cost of collecting.)

4. The federal courts may be used to litigate interstate child support cases in the event that one state has not acted in a timely manner to enforce a support order referred to it by another state.

5. The federal government shall pay 75% of the total amount expended by states to administer child support enforcement agencies. Additionally, the federal government will also make incentive payment to states which collect child support for an AFDC family on behalf of another state. The incentive payment is 15% of the federal government's share of the money collected.*

The initial legislation authorized federal funding for non-welfare case-work only through September 30, 1978. The Department of Health and Human Services approved some temporary funding after that date in the belief that Congress would soon fund enforcement for non-welfare families on a permanent basis. However, Congress did not act. In May, 1979, programs were notified officially that their non-AFDC funding had been cut, and were ordered to repay the amount they had expended

*Reviewer's Note: "Each State is initially responsible for indentifying and paying incentives pursuant to federal regulations. The incentives paid are then reduced from the federal government's share of collections retained on AFDC cases." Dan Copeland, Administrator, Alaska Child Support Enforcement Agency.

on non-welfare collections between October 1978 and May 1979. In March 1980, Congress released the funds for non-AFDC enforcement retroactive to October 1978, and in June authorized funding on a permanent basis.

SUPPORT ENFORCEMENT IN ALASKA

Overview

Until 1975, the State court system enforced payment of child support in Alaska. State law required that all child support payments be made to the Court Trustees who administered all court orders. Trustees collected the monthly support obligation from the obligor, as well as a mandatory 3% collection charge, and forwarded the support money to the custodial parent and children. Trustees were empowered to take legal action against obligors who failed to make their payments. In April 1975, however, the State Supreme Court ruled that the doctrine of separation of powers prevented the court from prosecuting for non-payment of support through its trustees. The Court held that prosecutorial and judicial functions could not be combined. (Public Defender Agency vs. Superior Court, Third Judicial District, Alaska, 534 P.2d 947)

Following the Supreme Court decision, the Attorney General's office provided child support enforcement services. However, in '5, the newly-enacted national child support enforcement legislation required each state to develop a child support enforcement program which met federal effectiveness standards or annually lose 5% of the federal funding for their Aid to Families with Dependent Children (AFDC) program. In most states, including Alaska, AFDC is the largest welfare program. A 5% cut in Alaska's federal funding represented about $300,000 at the time the national child support program passed Congress.

The enforcement performed by the Attorney General's office did not represent a comprehensive child support enforcement program. Consequently,Alaska, like most states, adopted a support enforcement act, and created a child support enforcement agency. Alaska's agency was established by the Legislature in 1976 in the Department of Health and

Social Services. On October 1, 1976, the Agency formally began operation, taking possession of the child support records from the State superior courts. Regional offices were opened in Fairbanks and Juneau by mid-November. The office in Anchorage served as both a regional office and as the state central office.

However, even with a child support enforcement agency, the State's federal AFDC funding was threatened. In December of 1976 when the Agency was reviewed by the Region X Office of Child Support Enforcement, it was found in violation of at least thirteen of the nineteen federal standards for an effective program. The State was warned its AFDC program could be ruled out-of compliance and all $6,000,000 in federal program funding withdrawn because child support was not being effectively collected for AFDC families.

During the next legislative session, the Legislature moved the Child Support Enforcement Agency from Health and Social Services to the Department of Revenue where it is presently located. The regional offices were closed and all enforcement centralized in the Anchorage office. Agency staff was expanded from 23 to 48 fulltime employees, and the budget increased 158%, from $581.5 thousand in state fiscal year 1977 to $1.5 million in state fiscal year 1978.

The Child Support Enforcement Agency will undergo several changes during the current fiscal year. First, staff is increasing this year from 55 full-time employees to 63. Second, the Agency, which is currently an office under the Division of Audit in the Department of Revenue, will become a division of its own sometime this year. Finally, a regional office will be opened in Fairbanks.

Note on Location of the Child Support Enforcement Agency

The appropriate location of Alaska's Child Support Enforcement Agency has been discussed at length. According to the following quotation from a memorandum prepared by the Department of Health and Social Services in 1977, the Departments of Public Safety, Law, Revenue, and Health & Social Services were all considered at one time.

> It must be stated in the strongest possible terms that the Department of Health and Social Services did not volunteer to take on the Child Support Enforcement Program. During the FY 77 hearings with the Governor's Budget Review Committee, the Department took the position that this was a police/enforcement function totally unrelated to our mission of serving people and would be better placed in the Department of Public Safety or the Department of Revenue. Earlier attempts by the Department of Administration to place the Agency in the Department of Law had met with negative results. At one point during the hearings, it appeared the Department of Revenue would be the recipient department; however, once the Commissioner of that department was apprised of this fact, he raised strong objection, with the resultant effect of its being assigned to the Department of Health and Social Services. (Alaska Department of Health and Social Services, "Issue Study, the Child Support Enforcement Agency," February 21, 1977.)

Placement of the Child Support Enforcement Agency depends largely on the role it is preceived to have, i.e., whether it is viewed as an agency which collects debts to the state, such as tax debts, or whether it is viewed as a children's or family services agency. Regardless of where it is placed, the Agency extensively uses the services provided by other departments. Therefore, it is more difficult to identify one department whose duties are most compatible with the Agency's. For example, all families receiving welfare through the Aid to Families With Dependent Children program are referred to the Agency by the De-

partment of Health and Social Services, which also determines whether or not a family will be required to cooperate in enforcement activity. (This will be explained in more detail later in this report.) Consequently, there is extensive interaction between the Agency and the Department of Health and Social Services. Similarly, the Agency relies on the State Troopers, who are under the administration of the Department of Public Safety, to serve "notice" on obligors when enforcement proceedings are underway. In addition, the Department of Law provides legal services to the Agency. The Department of Revenue, through its income tax records, is a major source of information concerning obligor's whereabouts and earnings, and is engaged in collection activity similar to the Agency's.

In other states, the location of the Child Support Enforcement Agency varies. It may be found in any of the departments listed above, or their equivalent.

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Program Costs

The Child Support Enforcement Agency receives its appropriation from the State on a state fiscal year basis, i.e., to cover the costs of enforcement between July 1 of one year and June 30 of the following year. However, in this report, costs are examined for each federal fiscal year - October 1 through September 30 - so that interstate comparisons can be made. The only centralized source of data for other states' programs is the National Office of Child Support Enforcement which publishes statistics on a federal fiscal year basis. A table showing the Agency's appropriations for state fiscal year 1977 through 1982 are attached to this report as Appendix C.

State's child support enforcement programs are funded 25% by the state and 75% by the federal government. Since October 1, 1976, the beginning of federal fiscal year 1977, $6.5 million has been spent on Alaska's child support enforcement program. The federal government has contributed $4.9 million of this money, and $1.6 million was supplied from the State's General Fund. Table 2 below shows the expenditures for each of the last four federal fiscal years. (We are currently in federal FY 81.)

The cost of administering Alaska's Child Support Enforcement Agency during federal FY 80 (October 1, 1979 - September 30, 1980) was $2.2 million as shown on the table. This represents an increase of about $1.4 million in total program expenditures since federal FY 77. Note, however, that over the four-year period, the state's annual expenditure has only increased by about $360 thousand. The bulk of the increase has been absorbed by the federal government.

How nice to say it!

TABLE 2
Child Support Enforcement Agency
Annual Program Cost
Federal Fiscal Year 1977 through Federal Fiscal Year 1980
(Thousands)

	FY 77*	FY 78*	FY 79*	FY 80**
Federal Share	589.1	1,186.6	1,451.5	1,683.6
State Share	196.4	395.5	483.8	561.2
Total Program Cost	$785.5	$1,582.1	$1,935.4	$2,244.8

Source: * Office of Child Support Enforcement, Department of Health, Education and Welfare, Fourth Annual Report to the Congress on the Child Support Enforcement Program, December 31, 1979

** Alaska Child Support Enforcement Agency

The State's actual expenditure for federal fiscal year 1980 was less than the $560,000 shown on Table 2, however. The State recovered $0.63 of every dollar it expended through (1) "incentive payments" received from other states for collecting support on behalf of AFDC families living in those states; and (2) retention of 50% of the money collected for domestic AFDC cases.[2] The amount of State money recovered is shown in the table below. By the end of federal fiscal year 1980, the net cost to the State of operating a child support enforcement program was $208,000.

[2]The state retains 50% of the money collected in an AFDC case where the amount collected is not sufficient to make the family eligible for AFDC.

TABLE 3
Child Support Enforcement Agency
Amount of State Expenditure Recovered
Federal Fiscal Year 1980
(Thousands)

		% of State Share of Program Cost
State Share of Program Cost	$561.2	100%
Incentive Payments made to State by Federal Government	(74.5)	13%
AFDC Collections Retained by State	(278.5)	50%
Total Amount Received	($353.1)	63%
Net State Cost	$208.1	37%

Source: House Research Agency, 1/2/80, from data provided by the Child Support Enforcement Agency.

Agency Caseload

As of September 30, 1980, a total of 16,800 child support cases were registered with the Child Support Enforcement Agency. In almost 15,000 of these cases (89%), the family lives in Alaska and the obligor either here or in another state. The remaining 1,800 cases represent an out-of-state family, and are being enforced at the request of another state. Using the Agency's estimate that each case represents one adult and two children, approximately 30,000 Alaskan children were participating in the State's child support enforcement program as of September 30, 1980.

TABLE 4
Child Support Enforcement Agency Caseload
As of September 30, 1980

	Alaskan Family Alaskan Father	Alaskan Family Non-Alaskan Father	Non-Alaskan Family Alaskan Father	Total
AFDC	10,561	168	845	11,574 69%
Non-AFDC	3,787	301	1,172	5,260 (31%)
All Cases	14,348 (85%)	469 (3%)	2,017 (12%)	16,834 (100%)

* The Child Support Enforcement Agency estimates that there are two children per case.

Source: Child Support Enforcement Agency

As stated earlier, the clients of the Child Support Enforcement Agency fall into two categories: welfare cases and nonwelfare cases.[3] On September 30, 1980, approximately 11,600 cases - or 69% of the Agency's total caseload - were families who were currently receiving AFDC or who had received AFDC in the past. Non-welfare households accounted for 5,300 of the Agency's cases, or 31% of the total caseload. According to the most recent AFDC Recipient Characteristics Study done by the Division of Public Assistance, in March 1979 the Child Support Enforcement Agency was attempting to collect support money for 97% of the AFDC households where there is only one natural parent.

what does attempt mean? sending a letter?

[3]As a point of information, Child Support Enforcement Agency staff refer to AFDC cases as "IV-A cases" because the AFDC program is Title IV-A of the Social Security Act. Similarly, non-AFDC cases are called "IV-D cases" because Title IV-D of the Act includes the provision authorizing agencies to enforce for non-welfare cl nts. Child support enforcement agencies are known as "IV-D agencies."

There are several reasons why the Child Support Enforcement Agency appears to be used more by families receiving AFDC. First, AFDC cases are automatically assigned to the Agency for enforcement, while non-AFDC clients request the Agency's services at their own initiative. In order to receive a full grant, all AFDC applicants must agree to cooperate with the Child Support Enforcement Agency in locating the absent parent of the children, and determining paternity, if that should be necessary.[4]

Second, non-welfare families may have been discouraged from using the Child Support Enforcement Agency to collect unpaid support. It was common knowledge among custodial parents that the Agency had no enforcement money for non-AFDC families between May 1979 and March 1980. Non-welfare parents report that they were told by the Agency to go to a private attorney, if possible, during this period. In addition, there is a widespread belief that the Agency's first priority is to provide enforcement for welfare families. Many non-welfare parents are convinced that the Agency has had very little success in collecting sup-

[4]The cooperation requirement may be waived by the Division of Public Assistance. Between October 1979 and March 1980, 54 AFDC recipients requested that the Child Support Enforcement Agency not take action against the children's other parent. For a waiver to be granted, one of the following circumstances must exist: 1) the child is the product of rape or incest; 2) adoption proceedings are underway; 3) there is the possibility of physical or emotional harm to a family member. In addition, so far the State has argued successfully with the federal government that invasion of privacy is also grounds for granting a waiver. According to the Division of Public Assistance, a client who claims invasion of privacy is in fact claiming emotional harm. Most AFDC clients who claim good cause for refusing to cooperate in securing child support or establishing paternity cite psychological or bodily harm as justification. The Division of Public Assistance determined that 23 of the 54 petitioners between October 1979 and March 1980 had a valid claim, having presented evidence of potential harm to themselves or their children. Of the valid claims, 3 alleged harm to the child, while 20 cited harm to the parent or custodian.

port money for non-welfare clients. As this report will discuss later, both these impressions are inaccurate; nevertheless, they may have dissuaded non-AFDC families from coming to the Agency for enforcement services.[5]

Fees

State statutes currently require the Child Support Enforcement Agency to charge non-AFDC families for enforcement based on their ability to pay. To date, the Agency has not charged any fees. However, the Agency's budget for State fiscal year 1981 was approved by the Legislature during the 1980 session with the following Legislative Intent: "The Department of Revenue will establish a sliding scale collection fee schedule for the non-AFDC caseload based on an individual's economic ability to pay." The Agency has developed the fee schedule shown below which will go into effect April 15, 1981. (The proposed regulations are attached as Appendix D of this report.) Families must pay these

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[5]In addition, several non-AFDC custodial parents interviewed by the House Research Agency complained of how they were treated when they contacted the Child Support Enforcement Agency regarding the status of their case. One woman said she called the enforcement officer assigned to her case to find out when she could expect some support money and was asked not to call again to inquire about her case. Another enforcement officer who was interviewed for this project also identified public relations as a problem. Custodial parents are not routinely notified regarding the progress in their cases beyond a form letter which is sent out once a year.

Enforcement of child support is a highly technical process involving many unavoidable delays. It may be that this is not being adequately explained to custodial parents. The Agency distributes booklets compiling all the State statutes pertaining to child support (see Attachment B); however, these are written in legal language, use technical terminology, and do not clearly spell out what delays a custodial parent can expect or what her role in the enforcement process will be.

fees when they apply for the Agency's services. Any additional services which the Agency later discovers are necessary will not be performed until the family has paid for them as well. Families must pay these fees regardless of whether any support money is ever collected for them.

Type of Service	Agency Fee
Location	$ 25.00
Establishment of paternity	960.00
Establishment of support obligation	510.00
Modifying a support order	80.
Collection of delinquent support obligation on an annual basis	120.00

In addition to the fees listed above, an annual "processing fee" will be deducted by the Agency from each incoming child support payment. The processing fee equals 0%, 5% or 10% of the monthly payment depending on the family's income. No attempt is made to recover any portion of the collection costs from the obligor and no fees are assessed obligors. Similarly, in child support cases where the family is the prevailing party, the Attorney General's office does not ask that the obligor pay any part of the court costs.

Steps in Support Enforcement

Under Alaska law, all children are entitled to support from their parents. However, enforcement of this child support obligation is often a very complicated process. In most instances, the Child Support Enforcement Agency must take several of the following steps in order to procure support money:

- Location -- Virtually no action can be taken on a case until the absent parent has been located.

- Determination of Paternity -- A father cannot be compelled to support a child born out of wedlock until the paternity of that child has been legally established.

- Establishment of a child support order -- Before any child support can be collected from an absent parent there must be a legally binding child support order.

- Modification of an existing child support order

- Collection of support money

According to Alaska's Child Support Enforcement Act, payment of child support may be enforced by administrative as well as judicial means. The Child Support Enforcement Agency has sufficient authority to obtain an acknowledgement of paternity, administratively establish a support order, and take action to collect support money without resorting to the courts. When court action is required, the Attorney General's Office represents the Agency on a contractual basis. (The Attorney General's Office provides legal services to most State agencies free of charge. However, the Attorney General's Office and the Child Support Enforcement Agency have a contractual arrangement because the federal government will reimburse the State for 75 percent of the legal expenses incurred by the Agency.)

Unless an absent parent will immediately agree to begin paying monthly support, child support enforcement is time-consuming. There are delays inherent in the process regardless of whether the case is being handled administratively or through the courts. For example, in every case,

the obligor must be given adequate notice of all proceedings so that he may defend himself. In any action, there may be several documents that must be "served" on the absent parent, i.e., either sent to him by registered mail with return receipt requested or delivered to him personally by the State Troopers. The obligor usually has thirty days from the date he was served to respond before enforcement proceedings are resumed. Frequently, more than thirty days elapse because the date of service is deferred. For example, an obligor who is being served by registered mail may postpone the official date of notification by refusing to accept or pick up the documents. Similarly, Troopers attempting to personally serve an individual may not be able to locate him, or if he lives in a rural community may not be immediately able to make the trip.[6] The inherent delays are compounded any time court action is required. Child support cases are civil matters, and may be set back on the court calendar to make time for criminal cases which, by law, must come to trial as quickly as possible.

Location. The Child Support Enforcement Agency cannot take any collection action until the absent parent of a family has been located. According to the Agency, the custodial parent usually knows the whereabouts of the absent parent, or can at least provide helpful information such as his social security number and occupation. When the address of the obligor is not known, the Agency first uses traditional information sources such as telephone directories, real and personal property records, vital statistics, and records of the Division of Motor

[6]According to a child support enforcement officer interviewed by the House Research Agency, the Troopers may assign child support cases a lower priority than other cases which require service. In the officer's opinion, notice could be served faster if the Agency did not rely exclusively on the Troopers but took on some of the responsibility itself, or contracted with ex-Troopers, security guards or private investigators for the job.

Vehicles. State and federal law require government entities to provide address information, and permit access by the Agency to records which are ordinarily confidential. For example, at the State level, the records of the Department of Revenue and the Criminal Justice Planning Agency may be used by the Agency for location and enforcement purposes. The Federal Parent Locator Service provides state enforcement programs with addresses kept in the records of federal agencies such as the Internal Revenue Service and the Social Security Administration. Most child support enforcement agencies, including Alaska's, use social security numbers to retrieve location information available from other State agencies and the federal Parent Locator Service.

Alaska's Child Support Enforcement Agency faces unique problems when attempting to locate absent parents. Conventional location methods are not necessarily as successful in Alaska as they are in other states. For example, social security numbers are not useful in location in all areas of the State. While performing research on another topic, the House Research Agency was told by State alcoholism program administrators that it is not unusual for individuals, particularly in rural areas, to share a social security number with other family members or to have picked their social security numbers at random when asked to provide one. Other factors also make it difficult to locate a parent in rural Alaska. A strong sense of group solidarity exists in some communities so that people may be reluctant to provide information about another member of the community to an outsider. Further, many villages have limited telephone communications.

Why not use PFS identification numbers or State BOPMV Medicare-aid numbers as mandated legislation?

The difficulty of location in Alaska is compounded by the mobility of the population. The State Department of Labor produced its most current Alaska Population Overview in 1979 using 1970 census statistics. The report stated that approximately 120,000 people moved to Alaska between

1965 and 1970; but almost 100,000 people left the state during the same period. For every six individuals who moved into Alaska, five individuals moved out. The Department of Labor predicted that the results of the 1980 census will show even greater migration to and from the state during the nineteen-seventies.[7] In addition, assuming most absent parents are between 20 and 34 years of age, the Child Support Enforcement Agency appears to be looking for people who statistically tend to be more mobile than other age groups.[8] According to U.S. census data, over 55% of the population between 20 and 34 years old moved at least once between 1975 and 1978, compared to 32% of people between 34 and 44, 20% between 45 and 54, and 17% between 55 and 64.[9]

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[7]Alaska Department of Labor, Alaska Population Overview, December 1979 pages 30,31.

[8]This estimate of the age of absent parents is based on the 1979 AFDC Recipient Characteristics Study done by the State Division of Public Assistance. According to data included in the study, of the parents (natural and adoptive mothers, natural and step-fathers) receiving AFDC benefits along with their children, 67% were between 20 and 34 years of age. Given this information, we made the following assumptions to reach the conclusion that most absent parents being sought by the Child Support Enforcement Agency are also in that age group, and follow the national migration trends reported for 1975-1978:

1. The custodial parents of both AFDC and non-AFDC families served by the Child Support Enforcement Agency, are approximately the same age.

2. Absent parents are generally the same age as custodial parents.

3. The migration trends demonstrated between 1975 and 1978 are representative of trends in subsequent years.

[9]U.S. Bureau of the Census, Current Population Reports, Series p-60, No. 331

Establishment of Support Orders. The Agency must have a valid child support order in hand before it can collect any support money. Most child support orders are obtained from a judge at the time of a divorce. However, orders do not usually exist if the parents of a child are separated but not divorced, or if they never married.

As the following table shows, only 42 percent of the Agency's total caseload had a valid child support order as of September 30, 1980. Consequently, for over half of its cases, the Agency must establish a support order before it can collect any support money. More than 9300 of the Agency's AFDC cases do not have orders compared to only 470 of its non-AFDC cases. Most non-welfare clients have a child support order before coming to the Agency for enforcement services while most welfare families do not. The State Division of Public Assistance indicated in its 1979 AFDC Recipient Characteristics Study that there is not a court-ordered support obligation for 78.5% of its AFDC households where there is only one parent in the home.

TABLE 5
Cases with Child Support Orders
Fourth Quarter of Federal Fiscal Year 1980
Ending September 30, 1980

	Number of Cases with Support Orders	% of Total Cases with Support Orders	Number of Cases Without Support Orders	% of Total Cases Without Support Orders	Total Cases
AFDC	2211	19%	9,363	81%	11,574
Non-AFDC	4786	91%	474	9	5,260
All Cases	6997	42%	9,837	58%	16,834

Source: House Research Agency, 1/2/81, from data provided by the Child Support Enforcement Agency.

The federal Child Support Enforcement program permits states to establish child support obligations in three ways:

1. by order of a court;
2. by administrative hearing process
3. by legally enforceable and binding agreement (i.e., by a voluntary out-of-court agreement subsequently signed by a judge).

States specify in their statutes which method(s) will be used by local child support enforcement agencies. Under Alaska Law, child support obligations may be established in all three ways.

Until recently, all support orders in Alaska had to be obtained through the court, a process which takes at least 6 months. Effective August 23, 1980, the Agency adopted regulations enabling it to administratively establish orders.[10] (Regulations are attached as Appendix E.) The Agency anticipates that an administrative order can be obtained in a pproximately 90 days, provided the obligor can be easily located. The Agency has projected that its administrative process will enable it to establish 1,080 support obligations by September 30, 1981, the end of federal FY 81. This represents a 43% increase over the number of groups established during FY 80. However, even at this rate it may be years before the Agency can establish orders for its current caseload, due to the number of cases without support orders.

How are we doing to date?

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[10]Note that issues other than child support, such as visitation privileges, may not be decided at an administrative hearing on child support obligations. In Alaska, child support and visitation are separate matters. A custodial parent who denies the absent parent his/her legal visitation rights is subject to a $200 find. However, denial of visitation is not considered a valid excuse for refusing to make child support payments.

Nationally, there is a general trend towards use of administrative procedures to set support obligations. There are two principal reasons for this: 1) orders can be obtained more quickly; and 2) it is less costly. These advantages are discussed more fully below.

Child support orders can be obtained more quickly using an administrative hearing process largely because the problems of crowded court calendars are eliminated. Child support cases are civil matters and consequently, they may be postponed by criminal cases which by law have priority on the courts' calendar. In addition, hearing officers may be able to handle more cases in a day than a judge. According to a national comparison of court system procedures and administrative procedures done by the U.S. Department of Health and Human Services (at that time, the Department of Health, Education and Welfare), this may be due to "greater formality in the courts stricter rules and procedures, and fewer hours per day spent adjudicating cases."[11]

The higher overall costs of a court compared to a child support enforcement agency are largely responsible for the comparative cost efficiency of an administrative proceeding. For example, the salaries of the parties involved in establishing obligations administratively, e.g., hearing officers (who may be attorneys), enforcement officers, clerks, are comparatively lower than the salaries of those involved in a court proceeding, e.g., judges, prosecutors, defense attorneys. Further, a court procedure requires more support staff than an administrative procedure, e.g., court clerks, baliffs, court recorders, prosecutors, defense attorneys. An administratively-oriented child support enforcement procedure offers additional economic advantages for a state.

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[11] U.S. Department of Health, Education and Welfare, Comparative Analysis of Court Systems Procedures and Administrative Procedures to Establish and Enforce Child Support Obligations: Executive Summary, February 1, 1980, page 4.

Currently, states are fully assuming many of the indirect costs of operating a court-oriented child support enforcement system. When determining how much federal funding a state program is entitled to, the federal government does not include as allowable expenses all court costs associated with support enforcement. For example, there is no formula for federal reimbursement of judicial salaries, courtroom costs, court filing costs, or the cost of summonses and notices. The Department of Health and Human Services found that for the states sampled in the study, when these indirect expenses are included, the total cost per case of establishing a support order through the courts was about 60% higher than the cost of establishing an order administratively.

In addition, the research conducted by the federal Department of Health and Human Services showed that an administrative mechanism for establishing support orders may reduce AFDC program abuse. There are instances of custodial parents falsely claiming that the children's other parent is not paying any support, or in states like Alaska where only one-parent families are eligible for AFDC, falsely claiming that the other parent does not live in the home. Often states do not discover that these families are not eligible for AFDC (or not eligible for full benefits) until the local support enforcement program attempts to track down the absent parent and discovers the family's real circumstances. Because it takes so long to process support cases through the courts, it could be six months or longer before this discovery is made, however. The study by the Department of Health and Social Services found that custodial parents are less likely to falsify information if they knew their cases would be looked into by the child support enforcement agency within the next month or two.[12]

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[12]Alaska's Child Support Enforcement Agency is currently negotiating with the federal government for reimbursement of some of these costs.

There are some disadvantages in having an administrative support order. First, in most states, including Alaska, there are collection actions which may be initiated by the child support enforcement agency, and those which are reserved for the court. The most severe measures, e.g., involuntary wage assignments, seizure and sale of property, are imposed by the court. Child support orders which are established by the court may be enforced either administratively or judicially; however, orders obtained administratively are enforceable only through administrative means. Second, administrative orders may not be recognized in other states. Further, the federal government may be reluctant to garnish federal employees' salaries unless there is a court-ordered support obligation. Third, if a family with an administrative order subsequently goes to court to obtain a court order, e.g., for interstate enforcement purposes, the court may not require the obligor to pay the arrearages (unpaid child support from previous months) which have accumulated under the administrative order. All these difficulties may be avoided if administrative orders are summarily ratified by the court, and subsequently enforceable as court orders. Employment of this procedure in Alaska would require legislative action, however.

Modification of Support Orders. Modification of a child support order is handled similarly to establishment of an order. At the request of an obligor, obligee, or custodial parent the Child Support Enforcement Agency may modify orders which it has established administratively; however, it may not adjust an order which was originally set by the court. Consequently, in most instances, modification requires court action, since, to date, most of the Agency's cases have a court-ordered support obligation. It takes about six months to obtain a modification, as the case may be delayed by crowded court calendars, and notification of obligors. Most commonly, orders are modified to require that child

support payments be made to the Agency rather than directly to the family. Modifications may also be requested to adjust an order for inflation, or because the obligor's financial status and his ability to pay, has changed.

Determination of Paternity. Illegitimate children have the same right to support from their parents as children who are born in-wedlock. However, a man cannot be compelled to contribute to the support of an out-of-wedlock child until the paternity of the child has been legally established. Depending on the state, paternity must be established in 15-65 percent of all child support cases.

As the table below indicates, nationally, the numbers of children born to unmarried parents has steadily increased, almost doubling between 1960 and 1975.

TABLE 6
Illegitimate Births in the United States

1940	1950	1960	1970	1975
89,500	141,500	224,300	390,700	447,900

Source: National Center for Health Statistics, HEW, Vital Statistics Report, 1972, Vol. I, and National Center for Health Statistics, Advance Report, Final Natality Statistics, 1975.

In 1977, one out of every six children or 16 percent of the children born in the United States were born out-of-wedlock.[13] The rate of

[13]National Center for Health Statistics, United States Department of Health, Education and Welfare, Advance Report, Final Natality Statistics, 1977.

illegitimacy is particularly high among AFDC recipients. It is estimated that one-third of the children enrolled in the AFDC program are illegitimate.[14]

The illegitimate birth rate in Alaska appears to be slightly lower than the national rate. The State Department of Health and Social Services reports that 12.3 percent of the children born in Alaska in 1977 were illegitimate compared to 16 percent nationally. The most recent statistics for (1979) show that 14 percent of the births in the state were out-of-wedlock, i.e., with one out of every seven children born to an unmarried mother.

The Child Support Enforcement Agency first attempts to settle paternity cases out of court by obtaining a voluntary admission of paternity from the putative father. If the putative father will not voluntarily legitimize the child and cannot produce sufficient evidence to clear himself, the Agency refers the case to the Attorney General's Office for adjudication by the court.[15]

The Child Support Enforcement Agency is required by federal law to establish paternity for all illegitimate children who are receiving AFDC

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[14]Judith B. Stouder, "Child Support Enforcement and Establishment of Paternity As Tools of Welfare Reform--Social Services Amendments of 1974, pt. B, 42 U.S.C. Section 651-60 (Supp. V, 1975)," Washington Law Review, Vol. 52: 169, 1976, p. 177.

[15]Blood tests of the child, the mother, and the putative father are used as evidence both in court and while the Agency is trying to obtain a voluntary admission. By means of blood testing, the genetic make-up of the child, the mother, and the "father" are compared to determine the statistical probability of paternity. Non-paternity can be positively established in almost every case where a man has been wrongly accused. Paternity cannot be proven with the same degree of accuracy; however, the statistical likelihood that the defendent is the father of the child can be computed based on the similarity of their genes.

benefits. Paternity is determined for non-welfare children upon request. The Agency estimates that paternity must be established for one-third of its AFDC caseload, while annually only two or three non-AFDC clients request a paternity determination.

As explained earlier, AFDC recipients must cooperate in establishing paternity in order to receive full assistance benefits, except when it is not in the best interest of the child. At the direction of the State Legislature, violation of privacy is also recognized as sufficient cause for non-cooperation. Consequently, compared to other states, Alaska may more readily excuse AFDC recipients from the cooperation requirement without penalty. Nevertheless, each quarter the Child Support Enforcement Agency meets its projected goals in establishing paternity, as the statistics below show. Goals are approved in advance of the quarter by the federal Office of Child Support Enforcement. Last fiscal year, the Agency surpassed its projection by 13 cases. For fiscal year 1979, the Agency reported 3 cases in which paternity had been established compared to 53 for fiscal year 1980.[16]

TABLE 7
Alaska Child Support Enforcement Agency
Number of Cases in which Paternity was Established by Quarter
Federal Fiscal Year 1980

	1st Quarter Ending 12/31/79	2nd Quarter Ending 3/31/80	3rd Quarter Ending 6/30/80	4th Quarter Ending 9/30/80	Year Total
Projected	3	5	14	18	40
Actual	6	13	15	19	53

Source: Child Support Enforcement Agency

53 cases of a total amount of new cases ?

[16]Fourth Annual Report to the Congress on the Child Support Enforcement Program, Office of Child Support Enforcement, Department of Health, Education and Welfare, December 31, 1979, p. 113

In many instances, the potential advantages for the child make it worthwhile for the mother to request or cooperate in a paternity suite despite the intrusion in to her privacy and the embarrassment of the process. Unless paternity has been established, illegitimate children do not have the same rights as other dependent children to claim benefits through both their parents. In some states, even when the father has been identified, a child born out-of-wedlock does not have the same rights as children born in-wedlock. However, in Alaska, the two may enjoy roughly equivalent legal status once paternity has been established. In this state, upon legitimization, a child has the following rights:

- (s)he is entitled to support from the father;
- (s)he may use the father's name;
- (s)he has a legal right to inherit if the father dies without making a will;
- (s)he is entitled to any social security benefits, workers' compensation, and the like, which is paid to the father's dependents;
- his/her birth certificate is automatically changed so that there is no record that (s)he was born out-of-wedlock.

Execution of a Support Order

After a child support order has been established, the Child Support Enforcement Agency initiates action to collect the debt. The Agency first attempts to bring about voluntary payment using traditional col-

lection techniques. The Agency relies primarily on telephone collection calls and collection letters.[17] These efforts are aimed at committing the obligor to a regular payment schedule or a voluntary assignment of a portion of his wages. If the obligor does not begin to make child support payments of his own volition, the Agency has the authority to initiate two kinds of collection action: 1) issuance of an order to "withhold and deliver" to a person, business, or government entity which has possession of property belonging to the obligor; or 2) assertion of a lien against real property, i.e., land and buildings, and personal property, such as vehicles, bank accounts, and wages. Orders to withhold and deliver are usually sent to the obligor's employer, and stipulate that a portion of his wages be withheld or "garnished". State law requires all persons to cooperate with orders to withhold and deliver and with the conditions of a lien, or be liable for the debt themselves.

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[17]An effective collection system depends largely on personal contacts. Nationally, commercial collection agencies and support enforcement programs rely on telephone calls which are cheaper and more timely than personal visits. Other states have found, however, that flexible working schedules are necessary for "phone power" to be most effective, as frequently obligors cannot be reached at home during the day. For example, Missouri increased its AFDC collections by 18% and its non-AFDC collections by 40% during a six month pilot project where collection calls were made during the evening and on Saturdays. An enforcement officer for Alaska's Child Support Enforcement Agency said that calling on Saturdays is much more succcessful. It also seems likely that telephone contact with other parts of the state - many of which are in different time zones - would be more difficult if calls are only placed during regular office hours in Anchorage. Currently, however, the Agency has no policy permitting enforcement officers to work on a flex-time basis.

Additionally, when the obligor cannot be contacted by telephone, the Agency relies on collection letters. According to the enforcement officers to whom we spoke, personal visits would be a more effective alternative, as obligors often ignore letters. Enforcement officers currently do not do any enforcement work in the field.

Before executing either collection action, the Agency must obtain what is called a "judgment" from the court on the amount in arrears.[18] After obtaining a judgment, the Agency must serve notice upon the obligor specifying his debt, the terms of the child support order, and the action that will be taken unless payment is made. The obligor has thirty days from the date of service to respond. According to custodial parents interviewed for this report, the Agency does not proceed with the action if the obligor makes any payment at all during the thirty day period. Even if the obligor owes a large amount of child support - for example, $5,000 - a token payment of only $200 would be enough to prevent the Agency from garnishing his wages, or asserting a lien against his property.* If the obligor makes no attempt to pay within thirty days, a lien will be filed against his property, or an order to withhold and deliver issued, usually to his employer.

Need changes

Lien. By law, property subject to a lien may not be sold, released or transferred until the child support is paid or the lien is released. For example, the Child Support Enforcement Agency can assert a lien

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[18]Currently, this is a time-consuming process requiring the obligor to appear in court. The Agency and the Attorney General's office have suggested that the process of obtaining a judgment can be streamlined in the following manner: 1) The Agency would submit a statement of the arrearage to the Superior Court, which would serve as a motion for a judgment; 2) at the same time the Agency would notify the obligor of the amount of child support owed and that a judgment had been requested; 3) if the obligor does not present any defense, the court would enter a judgment for the amount of support owed including overdue payment fees.

Reviewer's Note: "Even though payments may be made during the thirty day period, the Agency will proceed with the action to collect the remaining obligated amount. The obligor may negotiate a payment arrangement to satisfy the debt. Action is only stopped when the full amount stated in the notice is paid." Dan Copeland, Administrator, Alaska Child Support Enforcement Agency.

against a building owned by the obligor. If the obligor decides to sell the building, the amount owed to the Agency must be paid before a buyer can obtain title to the property. However, the Agency cannot compel the obligor to sell the building to pay his debt, but must wait until he decides to do so. Consequently, a lien acts as security for future payment of the support debt (provided the obligor ever disposes of the property), but as there is no immediate threat that property will be seized and sold, a lien may not induce an obligor to begin paying his monthly support obligation. Additionally, a lien against an obligor's property usually results in one lump sum payment to the Child Support Enforcement Agency upon disposal of the property. Therefore, it may be a good tool for collecting a large arrearage, but may not be an effective way to start a stream of regular payments between the obligor and the family.

Order to Withhold and Deliver. Almost all orders to withhold and deliver are directed to the obligor's employer, and require that some portion of the obligor's wages be garnished and turned over to the Child Support Enforcement Agency. The amount of earnings to be withheld is determined by the Agency, and depends on the total amount of support owed. Orders to withhold and deliver are commonly called involuntary wage assignments. In contrast to a lien, an order to withhold and deliver may result in money for the Agency within approximately 60 days. However, like a lien, an order to withhold and deliver is not currently an efficient way of collecting support money on a regular basis because the order is only in effect for one pay period. Consequently, the Agency must again serve notice on the obligor, wait the required thirty days, and re-serve the employer with an order to withhold and deliver in order to collect money from the next paycheck. The Agency and the Attorney General's office have proposed that AS 47.23.250 be amended so that one order to withhold and deliver remains in effect until the obligor's child support debt is satisfied.

In 1980, the Child Suport Enforcement Agency began using a collection procedure called "debt set-off" which has been successful in other states. Debt set-off allows states to collect child support debts by intercepting tax or other refunds due to the obligor. To implement this procedure, social security numbers are used to match the Child Support Enforcement Agency's records with those of the Department of Revenue. Prior to intercepting the refunds, obligors must be served notice, and given 30 days to respond. The Agency had somewhat limited success in attaining 1979 income tax refunds as in many instances, obligors' social security numbers were not on file. However, numbers have been obtained, and the Agency is planning to intercept 1980 tax refunds as well as any dividend payments from the Permanent Fund or royalty oil sales.

In cases where the Child Support Enforcement Agency cannot collect support money by using its own collection mechanisms, it may refer the case to court for further action. The court can require that an obligor's property be seized and sold for payment for the support debt. Similarly, the court may impose wage assignments which follows the obligor from job to job, and does not require monthly renewal. Finally, the court may find that an obligor who willfully does not pay even though he is financially able to do so, is in contempt of the child support order, and imprison him. The court almost never takes this action, however; and the Child Support Enforcement Agency and the Attorney General's Office advise against it in most instances, on the grounds that it may jeopardize the obligor's employment and therefore be counterproductive to payment of support.

Distribution of Collections. The federal Child Support and Establishment of Paternity Act requires all states to distribute support money collected in AFDC cases in the following manner:

- the family receives the monthly support owed to them if that amount is sufficient to take them off AFDC;

- if the monthly support obligation is not enough to make the family self-sufficient, the Agency retains the collection;

- an amount equal to the family's AFDC payment for the month is divided between the State and federal governments according to their contribution to local AFDC financing. In Alaska, the distribution is 50% to the State and 50% to the federal government;

- when assistance payments have been fully reimbursed, the excess is paid to the family.

Between October 1, 1979 and September 30, 1980 (federal FY 80), the State and federal governments each received $278,600 as their share of AFDC collections. According to the Child Support Enforcement Agency, almost all the money collected in AFDC cases is retained. The Agency estimates enough support is collected to make the family ineligible for AFDC in less than five AFDC cases a month. Nationally, about 5% of the money collected in AFDC cases is distributed to the families.

Interstate Enforcement

Alaska's Child Support Enforcement Agency currently outlines two procedures to be used in interstate support enforcement. These allow custodial parents to establish child support orders and secure support from absent parents who live in another state without 1) traveling to the obligor's state of residence; 2) hiring an attorney in the obligor's state of residence; or 3) extraditing the absent parent to Alaska on charges of criminal non-support.

URESA -- The Uniform Reciprocal Enforcement of Support Act (URESA) was adopted by Alaska in 1953. Nationwide, URESA is the mostly widely used interstate enforcement mechanism. The URESA procedure may be used to enforce an existing child support order, obtain a support order, and establish paternity where the putative father lives out-of-state. To initiate an interstate action, a petition is filed on behalf of the family in the Alaska court. (Alaska is subsequently known as the "initiating" state.) The petition is then sent to the court in the obligor's state of residence (the "responding" state). The case is carried on between the two courts. When the case comes to trial, the obligor appears before the responding court. If evidence is required from the custodial parent, she presents her testimony before the initiating court, which forwards it to the responding court. The final judgment in the case is made by the responding court. If payment of support is ordered, the obligor pays his local child support enforcement agency which sends the money to the agency in Alaska for disbursement to the family.

Uniform Registration of Support Orders -- In some states, a simpler method of enforcing support obligation exists for cases which already have a support order. An order from Alaska, for example, is registered with the court in another jurisdiction which extends to it "full faith and credit." This means that the second court can enforce the "foreign" order as if it were its own, without holding further hearings on the matter. Consequently, an interstate enforcement case is resolved more quickly using this procedure rather than the original URESA procedure discussed above, as URESA usually requires that hearings be held by the court in the second jurisdiction.

Alaska law extends full faith and credit to support orders from other states; currently, however, the Attorney General's office will not permit foreign orders to be simply registered and enforced, because the

existing State law does not adequately protect either obligors or custodial parents. As AS 25.25 currently reads, upon registration of a foreign order, the jursidiction of Alaska courts is not confined to collection of child support, but also extends to visitation and custody agreements. The Child Support Enforcement Agency does not have the legal authority to defend a custodial parent from another state in these matters. Consequently, if an Alaskan obligor requests the State court to modify the original custody or visitation agreement, and the custodial parent is indigent and cannot afford to hire an Alaskan attorney, she would not be represented when the matter came to court. Similarly, if the Alaska court modifies a child support order to require less than the amount originally specified, the excess in the out-of-state order continues to amount as arrearages, even though the obligor regularly pays the amount entered in the Alaska support order.

The Uniform Reciprocal Enforcement of Support Act and uniform registration of foreign orders (where it exists) have not entirely simplified interstate enforcement. There are still significant differences among states' enforcement laws and policies. For example, some states do not pursue payment of arrearages. Consequently other states involved in interstate collection actions with these states would not be able to collect arrearages even though their own laws permit it. Additionally, states frequently assign a lower priority to out-of-state cases than to their own cases. As a result, interstate actions may take a long time to resolve. States have several options when another state fails to respond to an interstate action in a timely manner. They may ask the federal Office of Child Support Enforcement to refer the case to a federal court. To date, no cases have reached the federal court for enforcement. The second alternative for a state is extradition of the obligor to be prosecuted for criminal non-support.

What can St. Legislature do.

In some states, including Alaska, local child support enforcement agencies currently have statutory authority to enter into reciprocal enforcement agreements with other states, but not with other countries. Consequently, as a practical matter, obligors who have gone to Canada, for example, are lost to these enforcement agencies. West Germany, Canada, and the other Commonwealth countries have enacted legislation similar to URESA, which enables them to participate in international enforcement proceedings with states that have statutory authority to do so.

On September 30, 1980, Alaska's Child Support Enforcement Agency was a party to approximately 2,490 interstate enforcement actions. The Agency was responding to 2,020 and had initiated 470.

EFFECTIVENESS OF SUPPORT ENFORCEMENT IN ALASKA

The primary measure of an enforcement agency's success is its collections. However, as the preceding section has discussed, before any support money can be collected, the Agency is forced to spend a significant portion of its time obtaining support orders and establishing paternity. Therefore, the Agency's collections alone do not adequately reflect its overall productivity.

In the following section of this report, the Agency's success in obtaining support orders, determining paternity, and collecting support money are all discussed. With regard to the Agency's collection success, two questions are addressed: 1) how successfully has the Agency collected child support for its caseload; and 2) how does the Agency's collection success compare nationally? In order to answer the first question, the amount of child support in arrears is contrasted with the amount of child support collected, and the number of paying cases is compared to the Agency's total caseload. To respond to the second question, Alaska's total collections, and collections per dollar of expenditure are compared to other states'. A final section discusses the cost efficiency of Alaska's enforcement program relative to other states.

Support Orders Obtained

Roughly 9,800 cases, or 58%, of the Child Support Enforcement Agency's caseload do not have a child support order. The Agency's performance with respect to these cases should be measured by its ability to obtain a support order for them.

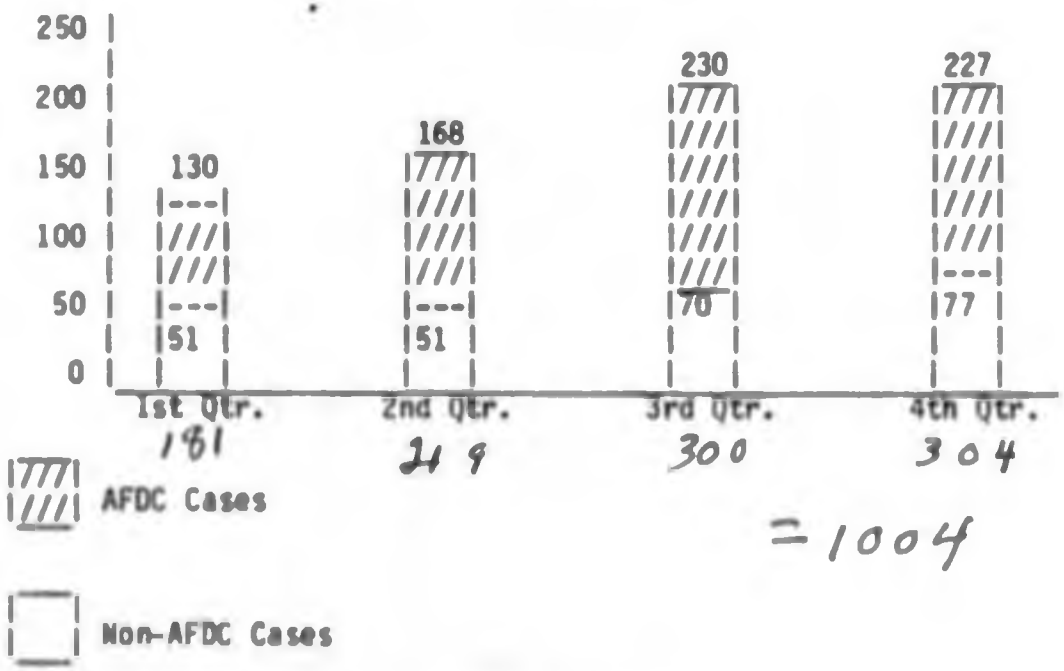
During federal FY 80, the Child Support Enforcement Agency established a total of 755 child support orders. This compares to 553 for FY 79.

next page 52 Table 8
shows 1004 child support orders?

Each quarter of 1980, the Agency was progressively more successful in obtaining child support orders, as shown by quarterly data on Table 8. One out of every nine cases with support orders on September 30, 1980 had obtained their orders since October 1, 1979.

Orders established during federal FY 80 had to be obtained through the court, a process which takes about 6 months. As noted earlier, the Agency has recently begun establishing orders administratively and anticipates it will be able to obtain 1,080 orders during federal FY 81. However, even at this rate, it will be many years before the agency will have support orders for all its existing cases, due to the backlog of cases currently without orders.

TABLE 8
Support Orders Obtained
Federal Fiscal Year 1980
By Quarter

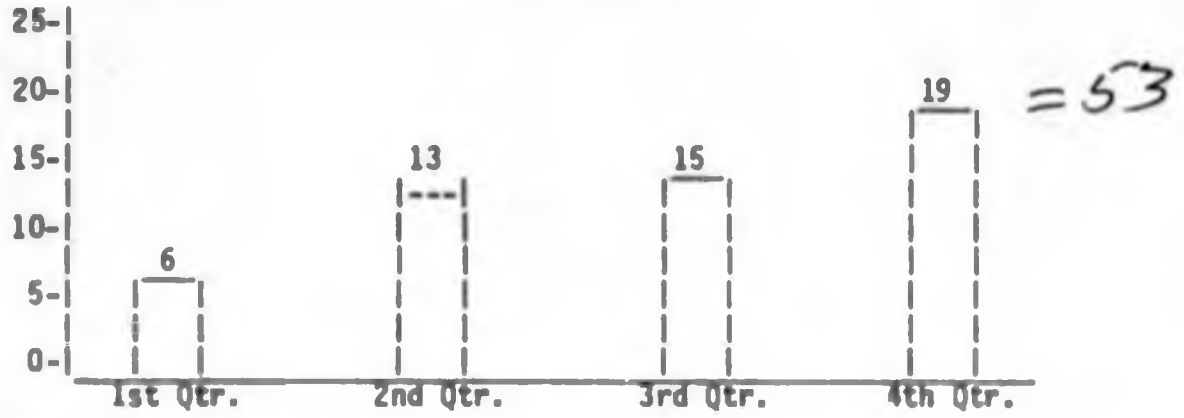


Source: Child Support Enforcement Agency

Paternity Established

As of September 30, 19 0, approximately 3,100 of the Agency's cases were awaiting a paternity determination. During federal FY 79, the Agency reported that paternity was established for 3 cases, compared to 53 cases during FY 80. By the last quarter of FY 80, the Agency was completing an average of 6 paternity cases per month compared to 2 cases per month during the first quarter of the year.

TABLE 9
Number of Cases in which Paternity was Established
Federal FY 80
By Quarter



=53

Source: Child Support Enforcement Agency

Child Support Collected

The table on the following page shows the Child Support Enforcement collections for the last two federal fiscal years: FY 79, ending Sep-

tember 30, 1979, and FY 80 ending September 30, 1980.[19] In the two-year period, a total of $10.9 million was collected for the Agency's clients. Collections on behalf of AFDC families totaled $1.9 million while collections for non-AFDC families equaled $9 million. Collections increased over the two-year period. In federal FY 80, the Agency collected almost $1 million more than was paid in FY 79, reflecting an increase of 19%.

Each year, approximately $1.5 million in child support money was exchanged between Alaska and other states, $1.2 million going out of Alaska and $300,000 coming into the state. A comparatively small amount of support is being collected by other states on behalf of families living in Alaska because the State has requested such services less often than it has been asked to provide them.

What are we doing to change this?

[19]Although the Child Support Enforcement Agency has been in existence since the beginning of federal FY 77, significant internal reorganization occurred during FY 79, including revision of the accounting system. According to the current administrator of the Agency, Dan Copeland, the final totals reported for collections for FY 79 are accurate; however, the totals reported for FY 77 and FY 78 may not be correct, and, in any event were computed in a significantly different manner than totals for FY 79 and FY 80. Statistics are shown for federal fiscal years as they are taken from reports submitted by the Child Support Enforcement Agency to the national Office of Child Support Enforcement to satisfy federal reporting requirements.

TABLE 10
Child Support Enforcement Agency
Child Support Collections
Federal FY 79 and Federal FY 80
(thousands of dollars)

FY 79	Alaskan Family Alaskan Father		Alaskan Family Non-Alaskan Father		Non-Alaskan Family Alaskan Father		Total	
AFDC	226.3	5%	107.8	2%	439.8	9%	773.9	16%
Non-AFDC	3,290.0	66%	220.2	4%	698.6	14%	4,208.8	82%
Sub-Total	3,516.3	71%	328.0	6%	1,138.4	23%	4,982.7	100%
FY 80								
AFDC	454.1	8%	103.0	2%	539.5	9%	1,096.6	19%
Non-AFDC	3,856.1	65%	221.0	4%	759.3	13%	4,836.4	92%
Sub-Total	4,310.2	73%	324.0	6%	1,298.8	22%	5,933.0	100%

Source: Office of Child Support Enforcement, U.S. Department of Health Education and Welfare, Fourth Annual Report to the Congress on the Child Support Enforcement Program, December 31, 1979.

According to the Child Support Enforcement Agency's collection data, significantly more child support is paid for non-welfare cases than welfare cases. In both fiscal year 1979 and 1980, the amount of child support received for non-AFDC families accounted for over 80% of the total support paid.

In the past, the Agency concentrated its collection effort on non-AFDC cases, largely because they are more collectable than AFDC cases. There are several reasons for this:

More Support Orders -- Proportionately more non-welfare families than welfare families have an existing child support order. While this may not make actual collection easier, the Agency does not

have to spend time securing an order and may be able to initiate enforcement efforts as much as six months sooner.

History of Payment -- A large proportion of the absent parents of AFDC families have never paid any support money. It is likely to be more difficult to collect support from an individual who has never paid than from an individual who has gambled that no collection action would be taken and stopped making payments.

Greater Cooperation -- Non-welfare families initiated the action against the absent parent and they may be more willing than welfare families to assist the Child Support Enforcement Agency in locating him and collecting support. Custodial parents of families on welfare are required to cooperate with the Child Support Enforcement Agency even though they may not want child support collected for personal or financial reasons. Some AFDC parents view collection of support as counter to the family's financial interest. While enough support may be collectd to make the family ineligible for AFDC, this amount may not be sufficient to compensate for the medicaid, food stamps, job training opportunities, child care and low cost housing opportunities which can be lost as a result of going off public assistance.

Greater ability to pay --The absent parents of non-welfare families may be able to pay more support. A staff person from the Child Support Enforcement Agency observed that the financial status of the absent parent of a welfare family is not often significanty better than the family's.

Collection Performance

Support Money Owed. During federal fiscal year 1980, approximately $6 million in child support was collected, as discussed above. However, this represents only 6% of the child support owed as shown on the table below.

TABLE 11
Child Support Enforcement Agency
Collections as a Percent of Estimated Amount Owed
Federal Fiscal Year 1980

	AFDC	%	Non-AFDC	%	Total	%
Average Collection Per Quarter	$ 274.1	3%	$1,209.8	8%	$1,483.2	6%
Average Arrearage per Quarter	8,782.1	97%	14,017.8	92%	22,799.9	94%
Average Owed Per Quarter*	9,056.2	100%	15,227.6	100%	24,283.1	100%

* The total amount of child support owed per quarter was computed by adding the average collection per quarter and the average amount of support money outstanding, or in arrears, at the end of each quarter.

Source: House Research Agency, 1/12/81, from data provided by the Child Support Enforcement Agency.

Support in Arrears. By the end of federal FY 80, unpaid child support for the Agency's clients amounted to $9.7 million for welfare families and $15.2 million for non-welfare families, a total of $24.9 million.

TABLE 12
Child Support Enforcement Agency
Child Support in Arrears
4th Quarter of Federal Fiscal Year 1980
(thousands)

	Alaskan Family Alaskan Father	Alaskan Family Non-Alaskan Father	Non-Alaskan Family Alaskan Father	Total
AFDC	$6,150.8	$449.0	$3,085.5	$9,685.3
Non-AFDC	$9,970.3	$924.7	$4,281.2	$15,176.2
Total	$16,121.1	$1,373.7	$7,366.7	$24,861.5

Source: Child Support Enforcement Agency

Obligors living in Alaska owe $16 million to families who also live here, and an additional $7 million for support of children residing outside the state. The Child Support Enforcement Agency is attempting to collect slightly over $1 million from fathers in other states on behalf of families who live here.

During federal FY 80, the amount of child support in arrears grew by $4 million, from $20.8 million at the end of the first quarter of FY 80 to $24.9 million at the end of the fourth quarter. Of this increase, $1.7 million was in AFDC cases, and $2.3 million in non-AFDC. The Agency has also seen an increase in its caseload during FY 80.

TABLE 13
Child Support Enforcement Agency
Support in Arrears
Federal Fiscal Year 1980 By Quarter

	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.
AFDC				
Arrearages	$8.0 million	$8.5 million	$8.9 million	$9.7 million
# of Cases with Support Orders	2,009	2,043	2,119	2,211
Arrearage per case	$3,963	$4,182	$4,218	$4,381
Non-AFDC				
Arrearages	$12.9million	$13.7million	$14.4million	$15.2million
# of Cases with Support Orders	4,540	4,621	4,655	4,786
Arrearage per case	$2,830	$2,963	$3,084	$3,171
All Cases				
Arrearages	$20.8million	$22.2million	$23.2million	$24.9million
# of Cases with Support Orders	6,549	6,664	6,774	6,997
Arrearage Per Case	$3,178	$3,336	$3,439	$3,553

Source: House Research Agency, 1/12/81, from data provided by the Child Support Enforcement Agency

However, it is unlikely that these new cases account for the total growth in arrearages, as this would mean that the average arrearage per new case was over $9,000. The increase in arrearages is probably the result of two factors: 1) the addition of new cases with support in arrears; and 2) an increase in the amount of unpaid support for the Agency's existing caseload. The latter seems to indicate that each month the Agency is falling further behind in collecting the support money owed to its clients.

The amounts shown previously in this section represent the support in arrears for only the clients of the Child Support agency who have a support order. Clients with orders constitute only 42% of the Agency's

caseload as of September 30, 1980. Significantly more money is owed for support of families for whom a support order has not yet been established; by law, the absent parent of a family on AFDC owes support money even if a child support order has not been established, as an obligor is liable to the State for the amount of public assistance provided to his/her children (AS 47.23.120). This is not true for non-AFDC cases; legally, the absent parent of a non-AFDC family has no specific financial obligation to the family until a support order has been established. Update this to include non-AFDC

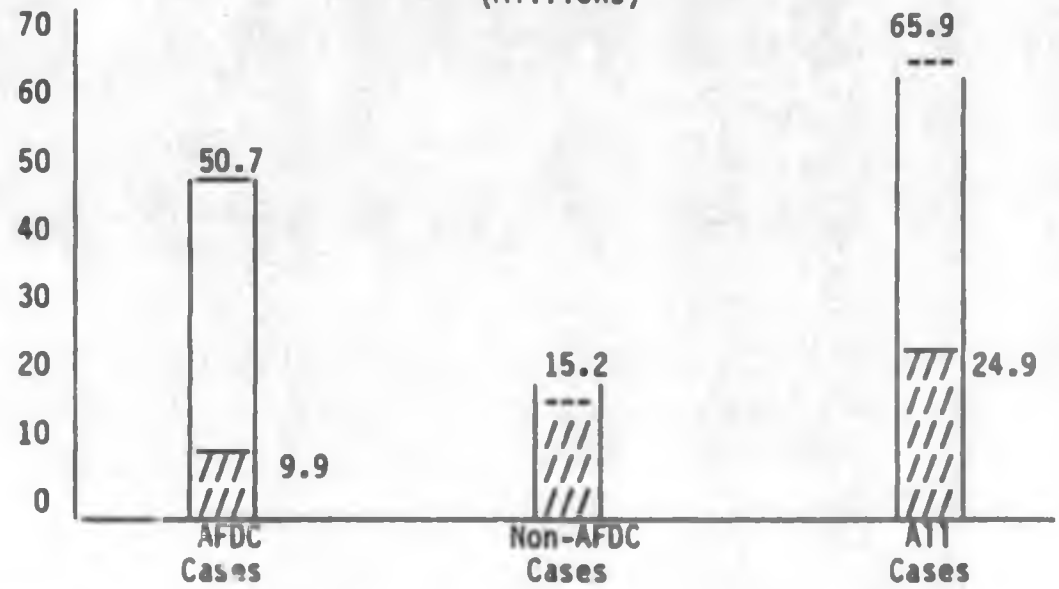
In Table 14, arrearages for cases without orders have been projected for the fourth quarter of federal FY 80. To estimate arrearages where there is no support order, the number of AFDC cases which do not have orders was multiplied by the average arrearage for AFDC cases with a support order.[20]

According to the table, approximately $41 million are owed for welfare families without a support order, making total support in arrears for welfare clients of the Child Support Enforcement Agency approximately $50.7 million, and arrearages for all clients $65.9 million.

Can Federal Income Tax refund be used for payments

[20]This assumption may have resulted in slightly understated estimates. The Child Support Enforcement Agency enforces the most collectible of its cases, which are likely to be those with comparatively smaller arrearages.

TABLE 14
Child Support Enforcement Agency
Estimated Child Support Arrearages
July 1, 1980 - September 31, 1980
(Millions)



Arrearages reported by the Child Support Enforcement Agency for cases with existing child support orders.

Arrearages for cases without child support order, estimated by House Research Agency, 12/18/80

* To derive the estimates, the number of AFDC cases without a support order was multiplied by the average arrearage for cases wit support orders. This assumes that arrearages for cases with orders and cases without orders will be approximately equal.

Cases Receiving Child Support -- The number of obligors making child support payments to the Agency between July 1, 1980 and September 30, 1980 is shown on Table 15 below. The agency collected support money for roughly one-third of its cases with child support orders, or 12.7% of its total caseload. Using the Agency's estimated average of two children per case, child support was collected for 4,264 children, 1,000 welfare children and 3,264 non-welfare children. However, no money was collected for more than 29,000 children, 9,730 of whom have a child support order.

TABLE 15
Child Support Enforcement Agency
Number of Payors Copared to Total Caseload
4th Quarter of Federal Fiscal 1980

	Payors	Cases with Support Orders	% of Cases with Orders Receiving Support	Total Caseload	% of Total Caseload Receiving Support
AFDC	500	2,211	22.6%	11,574	4.3%
Non-AFDC	1,632	4,786	34.1%	5,260	31.0%
Total	2,132	6,997	30.5%	16,834	12.7%

Source: Child Support Enforcement Agency

Amount Received Per Case -- As Table 16 shows, for the fourth quarter of fiscal year 1980, the average collection per payor was $793 for non-AFDC cases, and $562 for AFDC cases. Consequently, the average collection for each month of the quarter was $187 for AFDC cases and $264 for non-AFDC cases. Assuming two children per case, $93.50 was collected monthly for each welfare child and $132 for each non-welfare child.

TABLE 16
Child Support Enforcement Agency
Collections for Fourth Quarter 1980
(thousands)

	Collections	# of Payors	Average Collection Per Case for Quarter	Average Collection Per Case for Month	Average Collection Per Child For Month*
AFDC	$ 281.2	500	$562	$187	$93.50
Non-AFDC	$1,294.6	1,632	$793	$264	$132.00
Total	$1,575.8	2,132	$739**	$246**	$123.00**

* Using the Child Support Enforcement Agency's estimate of 2 children per case
** Weighted Average
Source: Child Support Enforcement Agency

The Agency estimates that the average monthly support obligation for its cases is $165, which is less than the average collection per case as shown in Table 16.

The difference between the Agency's estimate and the monthly collection shown here can probably be accounted for by the fact that each month many obligors are paying off a portion of their arrearages (unpaid child support from previous months) in addition to their monthly support obligation.

The average collection per case during the fourth quarter of FY 80 represented only 12% of the total owed per case, as shown on the table below.

TABLE 17
Child Support Enforcement Agency
Child Support Collected Per Paying Case as Percent of Amount Owed Per Case
Fourth Quarter of Federal Fiscal Year 1980

	AFDC	Non-AFDC	All Cases
Average Collection Per Paying Case	$562	$793	$789
Average Arrearage For All Cases	$4,381	$3,171	$3,553
Average Owed For All Cases*	$4,508	$3,441	$3,778

* The average owed for all cases was computed by adding the total collection and the total arrearage and dividing by the total number of cases with support orders.

Source: House Research Agency, 1/27/81

Length of Delinquency. Table 18 on the following page shows the Child Support Enforcement Agency's caseload by length of time since last payment. As of June 30, 1980, the end of the third quarter of fiscal year 1980, 25% of the Agency's cases with support orders were receiving support as scheduled. Forty-eight percent (48%) of the Agency's cases had not received any support money in over a year, 24% in over three years. Cases delinquent more than a year represent an estimated $12.5 million or more in arrearages and pose the most difficult collection problem facing the Agency.

Using the Child Support Enforcement Agency's estimate that the average monthly support obligation is $165, 3,700 obligors owed more than $990 in child support payments, 3,100 owed more than $1,900, and 1,600 obligors owed at least $5,900.

TABLE 18
Child Support Enforcement Agency
Arrearages by Case by Length of Delinquency
Third Quarter of Federal Fiscal Year 1980

	Cases with Child Support Orders		Amount in Arrears Per Case, Assuming $165 Monthly Support Obligation	Total Arrearage Assuming $165 Monthly Support Obligation (Thousands)
Current Cases	1625	25%	---	---
Delinquent Cases				
Less than 1 month	89	1%	$165	$14.7
1-3 months	714	11%	$165 - 495	$117.8 - 353.4
3-6 months	379	6%	$495 - 990	$187.6 - 375.2
6-12 months	597	9%	$990 - 1,980	$591.0 - 1,182.1
1-3 years	1540	24%	$1,980 - 5,940	$3,049.2- 9,147.6
More than 3 yrs.	1582	24%	$5,940+	$9,397.1- 15,661.8 (5 years delinquent)[1]
Sub-total	4901	75%		
TOTAL CASES	6526	100%		$13,357.4- 26,734.8

[1]Five years is used as an upper limit for length of delinquency only for the purposes of this table. The Agency has cases for which child support payments are more than five years delinquent.

Source: House Research Agency, 1/12/81, from date provided by the Child Support Enforcement Agency

Impact of Enforcement on Payment of Support

Even though only one-third of the Child Support Enforcement Agency's cases are currently receiving regular support payments, the Agency's enforcement activity appears to contribute to the level of child support paid in the state.

EFFECTIVENESS OF ENFORCEMENT

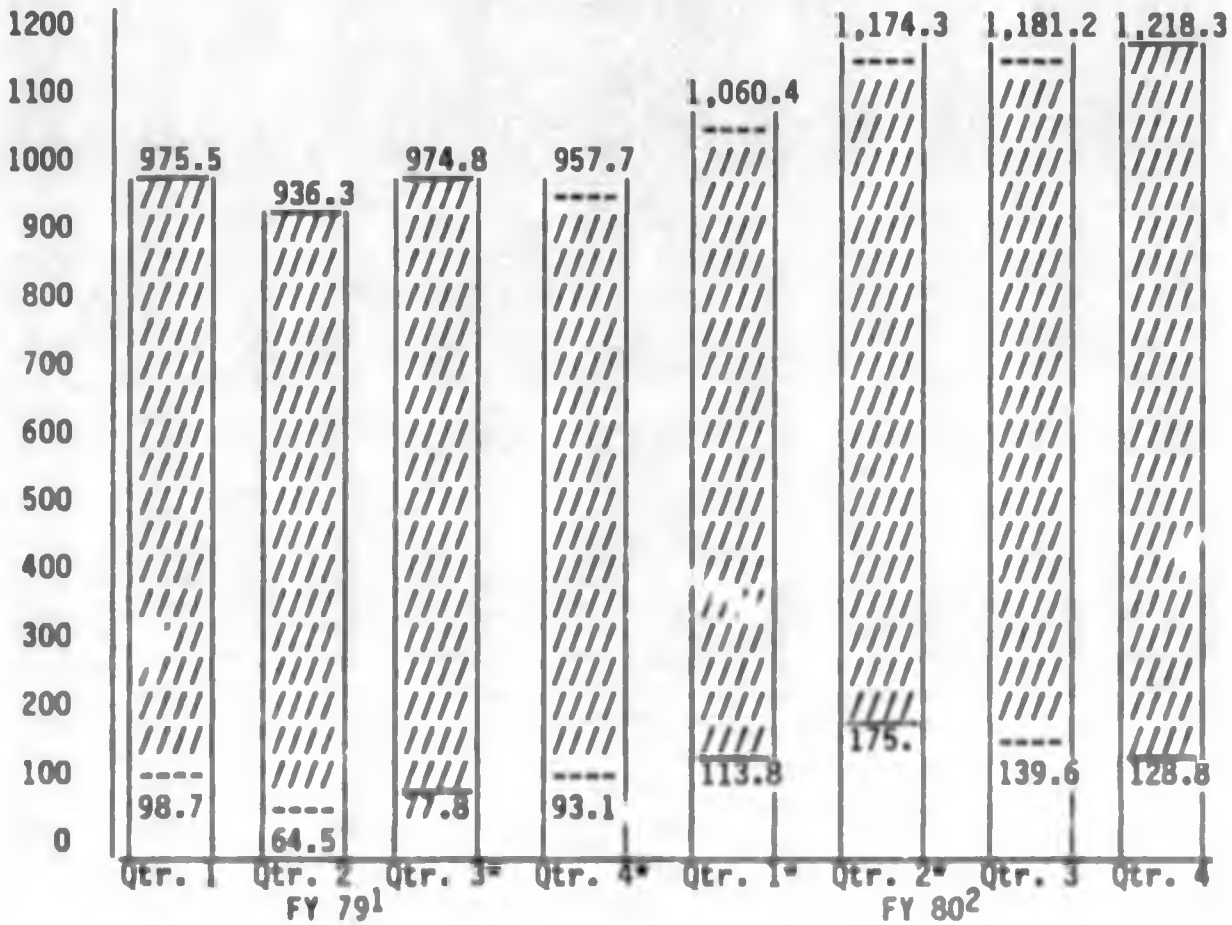
Until March 1979, the Child Support Enforcement Agency concentrated on collections for non-AFDC cases. However, effective April 1, 1979, all federal funding for non-AFDC casework was withdrawn. Consequently, for the remaining two quarters of fiscal year 1979 and the first two quarters of fiscal year 1980, the Agency's enforcement activity was focused on the AFDC caseload.

Table 1[illegible] shows the Agency's collections by quarter for fiscal years 1979 and 1980 for cases where the family lives in-state. As stated earlier, the Agency's accounting procedure was changed significantly during fiscal year 1979. Totals reported for the first two quarters of the year must be used as approximations, as the Child Support Enforcement Agency cannot verify their accuracy. According to the Agency, statistics for the final quarters of fiscal year 1979 and the annual total are correct.

Collections for both non-AFDC and AFDC cases improved during the four quarters that the Agency concentrated on collecting support for welfare cases. By March 31, 1980, non-AFDC collections had increased 11% even though no non-AFDC casework was being done. According to Dan Copeland, there are several explanations for the improvement. First, the Agency never publicly announced that it was no longer doing non-AFDC enforcement. Second, during the year there was no funding, the internal management of the Agency was improved. For the first time, the Agency was able to send out regular letters to obligors notifying them of the amount of support owed and the deadlines for payment. The Agency continued to send these letters to absent parents of non-AFDC families, even though no action could be taken if the obligors chose not to pay. Finally, the Attorney General's office had a backlog of non-AFDC cases which they continued to process throughout the four quarters.

As the table shows, when the Agency shifted its priority to enforcement of AFDC cases, collections for this category improved 125%. During the final quarter of the year of intensive AFDC case enforcement, the Agency collected approximately $100,000 more for AFDC cases than was collected during the first quarter of the year. In the absence of data indicating the amount of child support paid before the Child Support Enforcement Agency was established, the Agency's success in collecting for welfare cases during this period provides some indication that the Agency's collection efforts do increase the amount of support money paid.

TABLE 19
Child Support Enforcement Agency
Child Support Collections
(not including amounts collected for families in another state)
Federal Fiscal Years 1979 and 1980 by Quarter
(thousands of dollars)



* No funding for non-AFDC casework

Non-AFDC Cases

AFDC Cases

Source: [1]Fourth Annual Report to the Congress on the Child Support Enforcement Program, Office of Child Support Enforcement, Department of Health, Education and Welfare, December 31, 1979.

[2]Child Support Enforcement Agency

Interstate Comparisons

Interstate comparisons provide another means of evaluating the success of Alaska's Child Support Enforcement Agency. As stated earlier in this report, an Agency similar to Alaska's exists currently in all the states and most U.S. possessions. Programs are closely monitored by the federal Office of Child Support Enforcement, and are audited annually. Statistics used in this section are taken from the Fourth Annual Report to the Congress on the Child Support Enforcement Program. This publication was prepared by the National Office of Child Support Enforcement for federal fiscal year 1979. The statistics in this report were submitted by each local agency to the national enforcement office, and were derived according to the same procedure.

In the chart on the following pages, state agencies are ranked according to their total collections for both AFDC and non-AFDC families in federal fiscal year 1979. Obviously, these statistics cannot be used to measure the efficiency of local programs, as the amounts shown are a function of many factors, including the size of the state's population; the proportion of the population receiving AFDC; and the extent of enforcement being done for AFDC cases compared to non-AFDC cases. Predictably Alaska, which has a small population, a comparatively low number of AFDC recipients[21] and which does more non-AFDC case enforcement than AFDC case enforcement, collects a very small amount of support money for AFDC clients compared to other states (see Table 20). However, Alaska ranks seventeenth nationally in the dollar amount collected for non-welfare cases despite its small population relative to other states

[21]Staff of the Committee on Finance, United States Senate, "Staff Data and Materials on Child Support," Washington: U.S. Government Printing Office, March 19, 1979, p. 62.

(see Table 21).[22] In addition, as Table 21 shows, Alaska ranks twenty-third nationally in the amount of child support collected on behalf of AFDC and non-AFDC cases combined.

[22]The higher earnings and cost of living in Alaska do not account for its disproportionately large collections. The average monthly support obligation for families registered with the Agency is $82.50 per child, which apparently does not differ significantly from the national average.

TABLE 20
Child Support Collections on Behalf of AFDC Families
(not including amounts collected for families
living in another state)
By State, Federal Fiscal Year 1979

Rank of State		Collection	Rank of State		Collection
1	Michigan	$172,038,798	28	Indiana	$956,929
2	Pennsylvania	153,528,494	29	Ohio	857,949
3	California	82,412,308	30	Illinois	822,741
4	New York	79,772,980	31	Georgia	670,195
5	Oregon	75,524,966	32	Oklahoma	565,510
6	New Jersey	65,383,004	33	Montana	528,246
7	Connecticut	11,616,898	34	Kansas	520,308
8	Maryland	9,927,024	35	New Mexico	520,110
9	Washington	8,699,058	36	Colorado	495,681
10	Wisconsin	8,223,848	37	South Carolina	479,987
11	Louisiana	7,434,444	38	Idaho	453,987
12	Massachusetts	7,103,188	39	Maine	440,981
13	Minnesota	6,860,788	40	Nebraska	385,124
14	Arizona	5,768,925	41	North Dakota	343,558
15	Tennessee	5,104,836	42	South Dakota	269,543
16	Delaware	4,427,879	43	Kentucky	266,153
17	Alaska	3,510,224	44	Vermont	185,551
18	Nevada	3,350,784	45	Dist. Columbia	179,462
19	Hawaii	2,606,229	46	West Virginia	161,839
20	Iowa	2,363,175	47	Wyoming	140,669
21	Florida	1,925,768	48	Rhode Island	137,475
22	Texas	1,837,465	49	Virgin Islands	116,932
23	Missouri	1,663,991	50	Virginia	116,130
24	Arkansas	1,493,576	51	Mississippi	105,942
25	Puerto Rico	1,476,883	52	Alabama	16,032
26	North Carolina	1,454,154	53	Guam	408
27	Utah	1,182,755	54	New Hampshire	-0-

National Total: $736,519,844

Source: Office of Child Support Enforcement, Department of Health, Education and Welfare, Fourth Annual Report to the Congress on the Child Support Enforcement Program, December 31, 1979.

TABLE 21
Child Support Collections on Behalf of AFDC Families
(not including amounts collected for families living in another state)
By State, Federal Fiscal Year 1979

Rank of State	Collection	Rank of State	Collection
1 California	$117,532,204	28 Tennessee	$3,870,861
2 Michigan	76,375,082	29 Colorado	3,524,599
3 New York	56,587,904	30 Kansas	3,454,426
4 Pennsylvania	33,189,931	31 Rhode Island	3,437,802
5 Massachusetts	29,145,218	32 South Carolina	3,158,955
6 New Jersey	28,621,685	33 Hawaii	2,543,753
7 Wisconsin	26,043,529	34 Arkansas	2,427,570
8 Ohio	21,974,393	35 New Hampshire	2,088,882
9 Washington	18,318,488	36 Nebraska	2,083,322
10 Minnesota	14,509,658	37 Idaho	2,046,847
11 Oregon	12,977,261	38 Mississippi	1,555,947
12 Connecticut	11,416,234	39 West Virginia	1,430,307
13 Maryland	10,928,817	40 Delaware	1,385,587
14 Iowa	10,654,044	41 North Dakota	1,379,127
15 Illinois	9,916,428	42 Oklahoma	1,260,245
16 Virginia	9,080,462	43 Vermont	1,200,839
17 Florida	8,597,752	44 New Mexico	1,160,016
18 Indiana	8,115,632	45 South Dakota	1,137,318
19 North Carolina	7,714,074	46 Dist. Columbia	906,609
20 Alabama	6,837,844	47 Montana	684,566
21 Texas	6,369,617	48 Arizona	642,054
22 Utah	5,441,476	49 Nevada	517,089
23 Louisiana	5,244,166	50 Puerto Rico	439,17
24 Georgia	4,882,688	51 Wyoming	379,302
25 Kentucky	4,615,049	52 Alaska	334,058
26 Missouri	4,164,808	53 Guam	159,096
27 Maine	4,132,562	54 Virgin Islands	143,201

National Total: $596,738,555

Source: Office of Child Support Enforcement, Department of Health, Education and Welfare, Fourth Annual Report to the Congress on the Child Support Enforcement Program, December 31, 1979

TABLE 22
Child Support Collections per Dollar of Program Expenditure
Top Ranking States in Collections
Federal Fiscal Year 1979

Rank in State in Collection		Collection	Expenditure	Rank of State in Expenditure	$ Collected per $ Expended	Rank of State in $ Collected per $ Expended
1	Michigan	$248,413,880	$21,403,343	4	11.61	1
2	California	199,944,512	71,913,955	1	2.78	12
3	Pennsylvania	186,718,425	11,317,791	6	16.50	2
4	New York	136,360,884	56,874,939	2	2.40	14
5	New Jersey	94,004,689	21,521,747	3	4.37	7
6	Oregon	88,502,227	7,481,088	12	11.83	3
7	Massachusetts	36,338,406	6,247,927	16	5.82	4
8	Wisconsin	34,267,377	7,562,355	11	4.53	5
9	Washington	27,017,546	9,186,951	8	2.94	10
10	Connecticut	23,033,132	5,247,884	20	4.39	6
11	Ohio	22,832,342	11,425,116	5	2.00	17
12	Minnesota	21,370,446	8,827,178	9	2.42	13
13	Maryland	20,855,841	8,161,825	10	2.56	12
14	Iowa	13,017,219	3,798,545	25	3.43	8
15	Louisiana	12,678,610	6,715,874	15	1.89	19
16	Illinois	10,739,169	6,907,656	14	1.55	21
17	Florida	10,523,520	7,124,205	13	1.48	23
18	Virginia	9,196,592	5,996,625	17	1.53	22
19	North Carolina	9,168,228	5,800,373	18	1.58	20
20	Indiana	9,072,561	4,021,177	22	2.26	15
21	Tennessee	8,975,697	2,885,789	28	3.11	9
22	Texas	8,207,082	11,032,948	7	0.74	24
23	Alaska	3,844,282	1,935,367	31	1.99	18
24	Alabama	6,853,876	4,633,637	21	1.48	23
25	Utah	6,624,231	3,036,246	27	2.18	16

Source: House Research Agency, 1/2/81, taken from data from the Fourth Annual Report to the Congress on the Child Support Enforcement Agency, Office of Child Support Enforcement, Department of Health, Education and Welfare, December 31, 1979.

The figure on the following page shows the correlation between states' expenditures per case and their collections per case. Although there is considerable variation among states, in general, the amount a state collects is fairly closely related to the amount it is willing to spend. States which ranked in the top half in collection nationally spent an average of $7 more per case than states ranking lower in total collections.

During federal fiscal year 1980, Alaska's average enforcement expenditure per case was approximately $133. The State assumed $33 of the expenditure per case; however, its actual cost at the end of FY 80 was $12 per case, or $6 per child.[23]

TABLE 23
Child Support Enforcement Agency
Program Costs Compared to Number of Child Support Cases
Federal Fiscal Year 1980

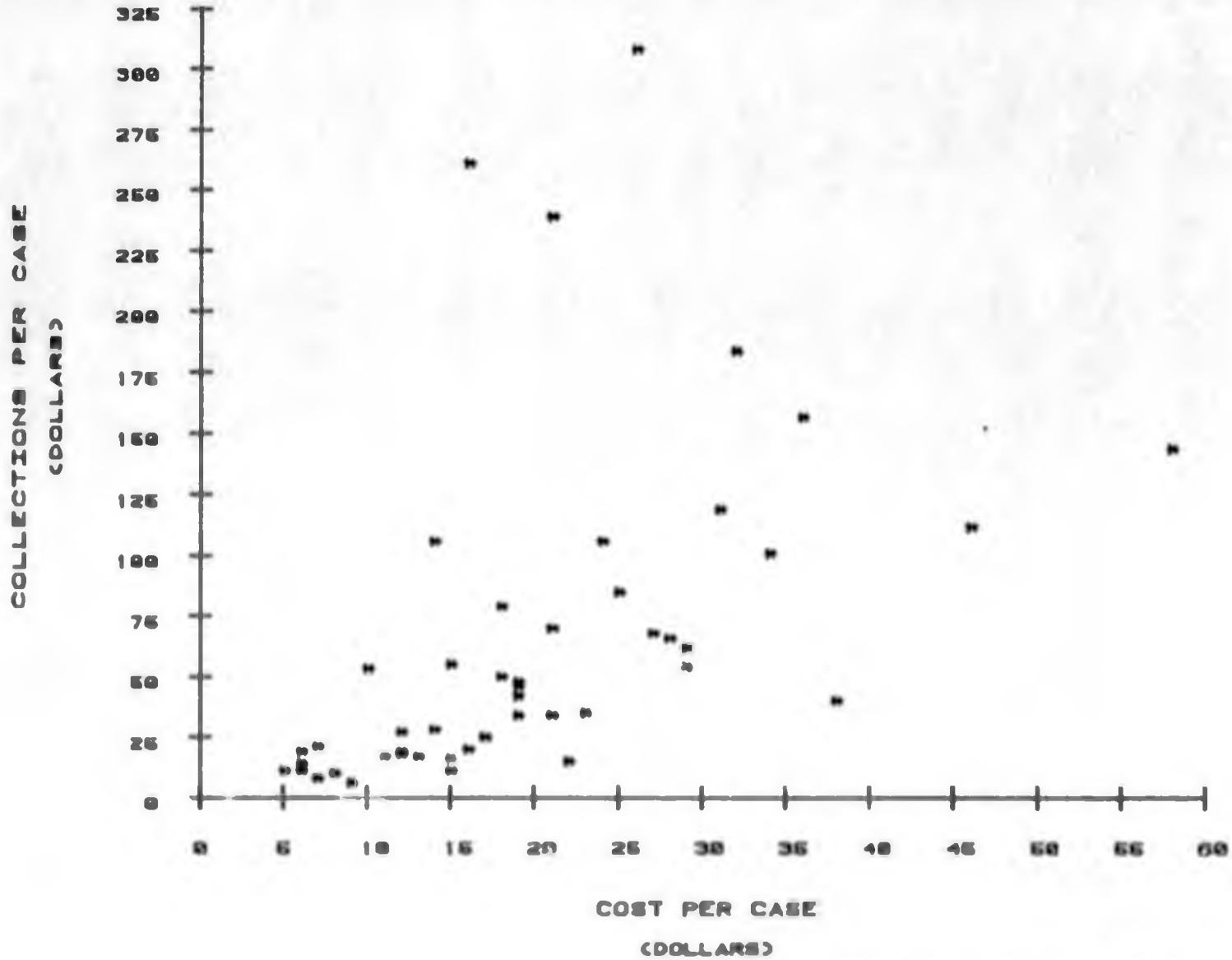
		Cost Per Case*
Program Cost	$2,244,81[illegible]	$133
State Share of Program Cost	561,202	33
State Share of AFDC Collections	(278,551)	
Incentive Payments Received	(74,567)	
Net State Expenditure	$208,084	$ 12

* On September 30, 1980, the final quarter of federal fiscal year 1980, 16,834 child support cases were registered with the Child Support Enforcement Agency.

Source: House Research Agency, 1/[illegible]/81, from data provided by the Child Support Enforcement Agency.

[23]Using the Child Support Enforcement Agency's estimate of two children and one adult per case.

RATIO OF CHILD SUPPORT COLLECTIONS PER CASE TO COST PER CASE
FEDERAL FISCAL YEAR 1979



SOURCE: HOUSE RESEARCH AGENCY, 1/27/81

CONCLUSION

Alaska's Child Support Enforcement Agency has shown progressively more success in collecting support money for its clients. Nonetheless, the number of families in Alaska who are not receiving any support money continues to grow.

The Governor will be introducing legislation this session on behalf of the Child Support Enforcement Agency. The legislation is intended to streamline the existing process of obtaining a child support order and collecting support. The major provisions in the legislation have been referenced in this paper, and a copy of the proposed legislation is attached as Appendix A. The changes proposed will undoubtedly speed case enforcement; however, the backlog of cases currently awaiting action is so large that it may be several years before many of the families registered with the Agency receive any support money.

Although the changes suggested by the Agency will solve some enforcement problems, the State may need to consider more comprehensive revisions to the current enforcement program. A thorough evaluation of enforcement procedures in other states is beyond the scope of this report. However, we have included a brief discussion of two enforcement approaches which have proven successful nationally.

Incarceration for Non-Support

The State of Michigan has had a child support enforcement program since 1917. It was partly Michigan's longstanding success at collecting child support which persuaded Congress to adopt the federal Child Support Enforcement Act and establish a support enforcement program in each of the states. Michigan collected $248 million in child support during federal fiscal year 1979 -- aproximately $50 million more than California which ranked second in total collections (see Table 22).

CONCLUSION

Certainly the fact that Michigan's child support enforcement program is long-established contributes to its collection success relative to other states. Many states had no enforcement program at all until 1975 when the national support enforcement program was adopted. In contrast, Michigan has had ample opportunity to improve its program organization, evaluate different enforcement techniques, etc. In addition, because payment of child support has been enforced in Michigan for so long, the state's obligors are in the habit of making payments. In other parts of the country, local child support enforcement programs are trying to convince obligors that the state is serious about enforcing payment of child support.

Michigan's enforcement program has several unique features in addition to being well-established. First, the child support enforcement program applies to all child support cases (welfare and non-welfare). The fact that all child support cases are enforced reinforces the impression that the state is serious about payment of child support.

By law, all child support cases, both welfare and nonwelfare, are automatically assigned to the local support enforcement agency. (In other states, welfare cases are assigned to the enforcement agency but non-welfare cases must come to the agency at their own initiative.)

Second, by state statute, the willful or negligent failure to make child support payments ordered by the court is a special form of contempt which can lead to a jail sentence of up to a year. Every year thousands of men are jailed for non-support. Defendants can obtain an early release by paying their arrearages or working out a payment schedule satisfactory to the court. Most obligors who are jailed purchase an early release by paying an amount less than their full arrearage.

In addition to regularly jailing for non-support, the Michigan counties which showed the highest collections did not wait for complaints from custodial parents that payments were overdue. Instead, they sent warning notices to obligors at their own initiative after several weeks of non-payment or when a certain arrearage amount had accumulated.[24]

In summary, Michigan counties which have a self-initiated warning system and a high incidence of jail sentences collect the most child support. Counties which have one or the other mechanism, but not both, collected only slightly more support than counties which employed neither. The study of Michigan's enforcement program concluded that jail is not an effective instrument of collection "unless it is perceived by potential offenders as likely to occur to them, a belief that apparently arises not from the mere occurrence of jail but from an effective reminder system....."[25]

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[24]Dan Copeland the Administrator of Alaska's Child Support Enforcement Agency, confirmed in a conversation that the faster an agency can contact an obligor who has stopped making payments, the easier it is to persuade him to resume.

[25]David L. Chambers, "Men Who Know They Are Watched: Some Benefits and Costs of Jailing for Non Payment of Support," University of Michigan Law Review, April - May 1977, 75: 927.

* Reviewer's Comments: Assistant Attorney General Pat Kennedy had these comments regarding Michigan's enforcement policies:

> Michigan gets good results, but they allow no due process, i.e. in contrast to us:
> 1. The fathers, if indigent, do not have the right to an attorney.
> 2. Inability to pay is no excuse.
> 3. No jury trial is available.
> 4. The case worker can arrest and prosecute the case.
>
> Further,
> 1. They have a very stable working population so people don't flee.
> 2. Their recidivism rate is high - they have a class of chronic "jail birds."
> 3. It is unclear whether their collections would not be just as high using our collection techniques.

Income Withholding

Other states have found that income withholding is the single most effective tool for enforcing support obligations. Alaska can currently require that income be withheld through 1) wage assignments imposed by the courts; and 2) orders to withhold and deliver which may be issued administratively as well as judicially. The National Conference of State Legislatures (NCSL) has thoroughly researched income withholding methods, and found that the most effective withholding laws have many features which Alaska's law currently does not include: they are mandatory; remain in effect continuously; and follow an obligor from job to job.

The following section is excerpted from an information release prepared by NCSL which concisely describes some of the income withholding laws in effect in other states.

Income Assignments With Every Order.

Wisconsin, Rhode Island and New York are examples of states with mandatory laws requiring that every order for support include an assignment or withholding provision, which is triggered to go into effect when there is a specified default in payments.

Wisconsin law (Chapter 767.265) requires that all orders for child support and maintenance payments include an assignment. The assignment could take effect immediately or when the person owing support fails to make a full payment within twenty days of its due date. The court then notifies the delinquent payor of a right to a hearing. If the hearing is not requested within 10 days, the assignment goes into effect. This law is considered a key fact - in the success of the Wisconsin program, which was just identified as first in the nation by the Office of Child Support Enforcement in returning dollars to the state from AFDC collections, compared to state dollars spent for the first three quarters of fiscal year 1980. In addition, one year of operation using the new law is considered to be the main reason that collections for September 1979, in Milwaukee County were $550,000 higher than collections for September of the preceding year.

In 1980 Rhode Island adopted an income assignment law (Chapter 15-5-16-3-1) modeled after the Wisconsin statute. New Jersey (S. 1508) has introduced a similar version which also includes a new element for getting the assignment provision into support orders which were set before the adoption of the proposed law. A person entitled to payments under a pre-existing child support, alimony or maintenance order may apply to the court to modify the order to include an assignment, to take effect at the time of a delinquency.

As of January 1, 1979, New York law (Personal Property Law Section 49-b) requires that all orders for support, which require that payment be made to the support collection unit, must include a withholding order which goes into effect when there is a failure to pay a specified number of payments, as determined by the court at the time the order is set. If the parent owing support fails to make the number of payments set by the court in the order, the support collection unit can take action to put the withholding order into effect. The first step is to notify the delinquent payor that the withholding order will be going into effect in fifteen days, unless the arrearage (missed payments) is paid. If the payor still fails to comply, notice is given to the employer to begin withholding an amount from the employee's wages sufficient to meet the support payment.

Of the orders established since January 1979, which include the withholding provision (some courts were slow to comply with the law), and in which the specified delinquency has occurred, steady payments through withholding are now being received in 72.9 percent of the cases. In New York alone there is an 80 percent payment rate on those orders which include the withholding provision, which may or may not be in effect, versus a 40 percent payment rate on orders which do not include the withholding provisions.

Income Assignments Established at Time of Delinquency

California has received a great deal of attention in the popular press for adopting a new income assignment law (Chapter 1341, Section 4700) that is considered to be one of the most stringent. The statute, which takes effect in January 1981, requires the court to issue an order of assignment upon receiving a petition signed under penalty of perjury by the person to whom payment was to be made, that the child support payments are in arrears in a sum equal to one monthly payment within the 24-month period immediately preceding filing of the petition. The order would be issued without notice by the court to the parent owing support. There is a requirement that the parent or representative of the government agency designated to receive support must notify the parent owing support of his or her intent to seek an assignment at

least 15 days prior to the date of the filing of the petition. Included in the law is a section specifying the conditions under which the assignment may be terminated.

Under prior California law, the absent parent had to be two months in arrears within the prior 24-month period and a court hearing had to be held to obtain an order for a wage assignment. The court process not only involved a considerable time delay, but also the expense of hiring an attorney. Thus, many custodial parents were unable to take advantage of the wage assignment law, and many of these were forced onto AFDC because of the delay and expense. Under the law the court can issue a wage assignment without a court hearing and therefore the delay and expense have been eliminated. Consequently, it is expected that there will be a substantial increase in the number of wage assignments ordered in California as those custodial parents previously unable to afford the delay and expense involved in obtaining a wage assignment can now obtain one.

Further information regarding all the programs summarized in this section are available from the House Research Agency upon request.

APPENDIX A
Child Support Enforcement Agency's Proposed Legislation

APPENDIX B
Title IV-D of the Social Security Act

APPENDIX

Title IV of the Social Security Act

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Part D—Child Support and Establishment of Paternity [1] [2]

Appropriation

Sec. 451. For the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity, and obtaining child support, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

Duties of the Secretary

Sec. 452. (a) The Secretary shall establish, within the Department of Health, Education, and Welfare a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective;

(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

(3) review and approve State plans for such programs;

(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than annually, conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part;

(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;

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[1] Part D was established by Part B of Public Law 93-647 with an effective date of July 1, 1975 except for section 459 which was effective as of January 1, 1975.

[2] The effective date of July 1, 1975 was changed to August 1, 1975 by Public Law 94-46.

(7) provide technical assistance to the States to help them establish effective systems for collecting child support and establishing paternity;

(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against absent parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the absent parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

(9) operate the Parent Locator Service established by section 453; and

(10) not later than three months after the end of each fiscal year, beginning with the year 1977, submit to the Congress a full and complete report on all activities undertaken pursuant to the provisions of this part, which report shall include, but not be limited to, the following:

(A) total program costs and collections set forth in sufficient detail to show the cost to the States and the Federal Government, the distribution of collections to families, State and local governmental units, and the Federal Government; and an identification of the financial impact of the provisions of this part;

(B) costs and staff associated with the Office of Child Support Enforcement;

(C) the number of child support cases in each State during each quarter of the fiscal year last ending before the report is submitted and during each quarter of the preceding fiscal year (including the transitional period beginning July 1, 1976, and ending September 30, 1976, in the case of the first report to which this subparagraph applies), and the disposition of such cases;

(D) the status of all State plans under this part as of the end of the fiscal year last ending before the report is submitted, together with an explanation of any problems which are delaying or preventing approval of State plans under this part;

(E) data, by State, on the use of the Federal Parent Locator Service, and the number of locate requests submitted without the absent parent's social security account number;

(F) the number of cases, by State, in which an applicant for or recipient of aid under a State plan approved under part A has refused to cooperate in identifying and locating the absent parent and the number of cases in which refusal so to cooperate is based on good cause (as determined in accordance with the standards referred to in section 402(a)(26)(B)(ii));

(G) data, by State, on the use of Federal courts, and on use of the Internal Revenue Service for collections, the number of court orders on which collections were made, the number of paternity determinations made and the number of parents located, in sufficient detail to show the cost and benefits to the States and to the Federal Government; and

(H) the major problems encountered which have delayed or prevented implementation of the provisions of this part during the fiscal year last ending prior to the submission of such report.[1]

(b) The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify the amount of any child support obligation assigned to such State to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. No amount may be certified for collection under this subsection except the amount of the delinquency under a court order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

(c)(1) There is hereby established in the Treasury a revolving fund which shall be available to the Secretary without fiscal year limitation, to enable him to pay to the States for distribution in accordance with the provisions of section 457 such amounts as may be collected and paid (subject to paragraph (2)) into such fund under section 6305 of the Internal Revenue Code of 1954.

(2) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding section shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

Parent Locator Service

Sec. 453. (a) The Secretary shall establish and conduct a Parent Locator Service, under the direction of the designee of the Secretary referred to in section 452(a), which shall be used to obtain and transmit to any authorized person (as defined in subsection (c)) information as to the whereabouts of any absent parent when such information is to be used to locate such parent for the purpose of enforcing support obligations against such parent.

(b) Upon request, filed in accordance with subsection (d) of any authorized person (as defined in subsection (c)) for the most recent address and place of employment of any absent parent, the Secretary shall, notwithstanding any other provision of law, provide through the Parent Locator Service such information to such person, if such information—

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[1] Paragraph (10) was amended by sec. 504(a) of P.L. 95-30.

(1) is contained in any files or records maintained by the Secretary or by the Department of Health, Education, and Welfare; or

(2) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e), from any other department, agency, or instrumentality, or the United States or of any State.

No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1).

(c) As used in subsection (a), the term "authorized person" means—

(1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority under such plans to seek to recover any amounts owed as child support (including, when authorized under the State plan, any official of a political subdivision);

(2) the court which has authority to issue an order against an absent parent for the support and maintenance of a child, or any agent of such court; and

(3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving aid under part A of this title) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.

(d) A request for information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.

(e)(1) Whenever the Secretary receives a request submitted under subsection (b) which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c), he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized to be provided by the Secretary under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individuals shall immediately transmit such information to the Secretary, except that if any information is obtained the disclosure of which would contravene national policy or security interests of the United States or the confidentiality of census data, such information shall not be transmitted and such individual shall immediately notify the Secretary. If such search fails to disclose the information requested, such individual shall immediately so notify the Secretary. The costs incurred by any such department, agency, or instrumentality of the United States or of any State

in providing such information to the Secretary shall be reimbursed by him. Whenever such services are furnished to an individual specified in subsection (c)(3), a fee shall be charged such individual. The fee so charged shall be used to reimburse the Secretary or his delegate for the expense of providing such services.

(f) The Secretary, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering State plans approved under this part for such State agencies to accept from resident parents, legal guardians, or agents of a child described in subsection (c)(3) and, after determining that the absent parent cannot be located through the procedures under the control of such State agencies, to transmit to the Secretary requests for information with regard to the whereabouts of absent parents and otherwise to cooperate with the Secretary in carrying out the purposes of this section.

State Plan for Child Support

Sec. 454. A State plan for child support must—

(1) provide that it shall be in effect in all political subdivisions of the State;

(2) provide for financial participation by the State;

(3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;

(4) provide that such State will undertake—

(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402(a)(26) of this title is effective, to establish the paternity of such child unless the agency administering the plan of the State under part A of this title determines in accordance with the standards prescribed by the Secretary pursuant to section 402(a)(26)(B) that it is against the best interests of the child to do so, and

(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States (unless the agency administering the plan of the State under part A of this title determines in accordance with the standards prescribed by the Secretary pursuant to section 402(a)(26)(B) that it is against the best interests of the child to do so), except that when such arrangements and other means have proven ineffective, the State may utilize the Federal courts to obtain or enforce court orders for support; [1]

(5) provide that, in any case in which child support payments are collected for a child with respect to whom an assignment under section 402(a)(26) is effective, such payments shall be made to the State for distribution pursuant to section 457 and shall not be paid directly to the family except that this paragraph shall not apply

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[1] Section 454(4) was amended by Public Law 94-88. See also section 202(b) of Public Law 94-88.

to such payments (except as provided in section 457(c)) for any month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;[1]

(6) provide that (A) the child support collection or paternity determination services established under the plan shall be made available to any individual not otherwise eligible for such services upon application filed by such individual with the State, (B) an application fee for furnishing such services may be imposed, except that the amount of any such application fee shall be reasonable, as determined under regulations of the Secretary, and (C) any costs in excess of the fee so imposed may be collected from such individual by deducting such costs from the amount of any recovery made;

(7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the agency administering the plan;

(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing—

(A) all sources of information and available records, and

(B) the Parent Locator Service in the Department of Health, Education, and Welfare;[2]

(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State—

(A) in establishing paternity, if necessary,

(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State,

(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and

(D) in carrying out other functions required under a plan approved under this part;

(10) provide that the State will maintain a full record of collections and disbursements made under the plan and have an adequate reporting system;

(11) provide that amounts collected as child support shall be distributed as provided in section 457;

(12) provide that any payment required to be made under section 456 or 457 to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children;

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[1] See also sections 201(b) and 202(b) of Public Law 94-88.
[2] See also section 6103(l)(6) of the I.R.C.

(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating absent parents, establishing paternity, obtaining support orders, and collecting support payments;

(14) comply with such bonding requirements, for employees who receive, disburse, handle, or have access to, cash, as the Secretary shall by regulations prescribe; and [1]

(15) maintain methods of administration which are designed to assure that persons responsible for handling cash receipts shall not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of cash receipts (except that the Secretary shall by regulations provide for exceptions to this requirement in the case of sparsely populated areas where the hiring of unreasonable additional staff would otherwise be necessary).[1]

Payments to States

Sec. 455. (a) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter commencing July 1, 1975, an amount—

(1) equal to 75 percent of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454, and

(2) equal to 50 percent of the total amounts expended by such State during such quarter for the operation of a plan which meets the conditions of section 454 except as is provided by a waiver by the Secretary which is granted pursuant to specific authority set forth in the law;

except that no amount shall be paid to any State on account of furnishing child support collection or paternity determination services (other than the parent locator services) to individuals under section 454(6) during any period beginning after September 30, 1978.[2]

(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secre-

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[1] Paragraphs (14) and (15) were added by sec. 502(a) of P.L. 95-30.

[2] Section 455(a) was amended by secs. 201(c) and 503 of P.L. 94-88, by sec. 2 of P.L. 95-365, and by sec. 4 of P.L. 95-59. See also sec. 503 of P.L. 94-566 which is printed in this document on p. 793. Funding for this purpose for periods after September 30, 1978 has been made available pursuant to Public Law 95-482 (continuing resolution).

tary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.[1]

Support Obligations

Sec. 456. (a) The support rights assigned to the State under section 402(a)(26) shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(1) The amount of such obligation shall be—

(A) the amount specified in a court order which covers the assigned support rights, or

(B) if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary, and

(2) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation under paragraphs (1) (A) and (B).

[(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under the Bankruptcy Act.][2]

Distribution of Proceeds

Sec. 457.[3] (a) The amounts collected as child support by a State pursuant to a plan approved under this part during the 15 months beginning July 1, 1975, shall be distributed as follows:

(1) 40 per centum of the first $50 of such amounts as are collected periodically which represent monthly support payments paid as assistance to such family during such month;

(2) such amounts as are collected periodically which are in excess of any amount paid to the family under paragraph (1) which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(3) such amounts as are in excess of amounts retained by the State under paragraph (2) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

(4) such amounts as are in excess of amounts required to be distributed under paragraphs (1), (2), and (3) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments

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[1] Section 455(b) added by Public Law 94-88. See also section 206 of Public Law 94-88.

[2] Subsection 456(b) repealed by section 220 of Public Law 95-598 effective Nov. 6, 1978.

[3] See section 402(a)(26).

made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

(b) The amounts collected as child support by a State pursuant to a plan approved under this part during any fiscal year beginning after September 30, 1976, shall be distributed as follows:

(1) such amounts as are collected periodically which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(2) such amounts as are in excess of amounts retained by the State under paragraph (1) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

(3) such amounts as are in excess of amounts required to be distributed under paragraphs (1) and (2) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

(c) Whenever a family for whom child support payments have been collected and distributed under the plan ceases to receive assistance under part A of this title, the State may—

(1) continue to collect amounts of child support payments which represent monthly support payments from the absent parent for a period of not to exceed three months from the month following the month in which such family ceased to receive assistance under part A of this title, and pay all amounts so collected, which represent monthly support payments, to the family; and

(2) at the end of such three-month period, if the State is authorized to do so by the individual on whose behalf the collection will be made, continue to collect amounts of child support payments which represent monthly support payments from the absent parent and pay the net amount of any amount so collected, which represents monthly support payments, to the family after deducting any costs incurred in making the collection from the amount of any recovery made,

and so much of any amounts of child support so collected as are in excess of the payments required to be made in paragraph (1) shall be distributed in the manner provided by subsection (b)(3) (A) and (B) with respect to excess amounts described in subsection (b).[1]

Incentive Payment to Localities

Sec. 458.[2] (a) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of the support rights assigned under section 402(a)(26) (either within or outside of such

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[1] Subsection (c) was amended by sec. 11 of P.L. 93-373.

[2] See sections 301(b) and 303(b) of Public Law 94-88.

State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent an amount equal to 15 per centum of any amount collected and require to be distributed as provided in section 457 to reduce or repay assistance payments.[2]

(b) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under subsection (a) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.[2]

Consent by the United States to Garnishment and Similar Proceedings for Enforcement of Child Support and Alimony Obligations

Sec. 459. (a) Notwithstanding any other provision of law, effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payments.

(b) Service of legal process brought for the enforcement of an individual's obligation to provide child support or make alimony payments shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate agent designated for receipt of such service of process pursuant to regulations promulgated pursuant to section 461 (or, if no agent has been designated for the governmental entity having payment responsibility for the moneys involved, then upon the head of such governmental entity). Such process shall be accompanied by sufficient data to permit prompt identification of the individual and the moneys involved.[3]

(c) No Federal employee whose duties include responding to interrogatories pursuant to requirements imposed by section 461(b)(3) shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by him in connection with the carrying out of any of his duties which pertain (directly or indirectly) to the answering of any such interrogatory.[3]

(d) Whenever any person, who is designated by law or regulation to accept service of process to which the United States is subject under this section, is effectively served with any such process or with interrogatories relating to an individual's child support or alimony payment obligations, such person shall respond thereto within thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service thereof is made, and shall, as soon

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[2] Subsection (a) was amended by sec. 503(a)(1) of P.L. 93-35.
[2] Subsection (b) was amended by sec. 503(a)(2) of P.L. 93-35.
[3] Section 459 was amended by sec. 361 of P.L. 93-66.

as possible but not later than fifteen days after the date effective service is so made of any such process, send written notice that such process has been so served (together with a copy thereof) to the individual whose moneys are affected thereby at his duty station or last-known home address.[1]

(e) Governmental entities affected by legal processes served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.[1]

(f) Neither the United States, any disbursing officer, nor governmental entity shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if such payment is made in accordance with this section and the regulations issued to carry out this section.[1]

Civil Actions To Enforce Child Support Obligations

Sec. 460. The district courts of the United States shall have jurisdiction, without regard to any amount in controversy, to hear and determine any civil action certified by the Secretary of Health, Education, and Welfare under section 452(a)(8) of this Act. A civil action under this section may be brought in any judicial district in which the claim arose, the plaintiff resides, or the defendant resides.

Regulations Pertaining to Garnishments[1]

Sec. 461. (a) Authority to promulgate regulations for the implementation of the provisions of section 459 shall, insofar as the provisions of such section are applicable to moneys due from (or payable by)—

(1) the executive branch of the Government (including in such branch, for the purposes of this subsection, the territories and possessions of the United States, the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, and the government of the District of Columbia), be vested in the President (or his designee),

(2) the legislative branch of the Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

(3) the judicial branch of the Government, be vested in the Chief Justice of the United States (or his designee).

(b) Regulations promulgated pursuant to this section shall—

(1) in the case of those promulgated by the executive branch of the Government, include a requirement that the head of each agency thereof shall cause to be published, in the appendix of the regulations so promulgated, (A) his designation of an agent or agents to accept service of process, identified by title of position, mailing address, and telephone number, and (B) an indication of the data reasonably required in order for the agency promptly to identify the individual with respect to whose moneys the legal process is brought,

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[1] Section 461 was added by sec. 361(c) of P.L. 93-30.

(2) in the case of regulations promulgated for the legislative and judicial branches of the Government set forth, in the appendix to the regulations so promulgated, (A) the name, position, address, and telephone number of the agent or agents who have been designated for service of process, and (B) an indication of the data reasonably required in order for such entity promptly to identify the individual with respect to whose moneys the legal process is brought, and

(3) provide that (A) in the case of regulations promulgated by the executive branch of the Government, each head of a governmental entity (or his designee) shall respond to relevant interrogatories, if authorized by law of the State in which legal process will issue, prior to formal issuance of such process, upon a showing of the applicant's entitlement to child support or alimony payments, and (B) in the case of regulations promulgated for the legislative and judicial branches of the Government, the person or persons designated as agents for service of process in accordance with paragraph (2) shall respond to relevant interrogatories if authorized by the law of the State in which legal process will issue, prior to formal issuance of legal process, upon a showing of the applicant's entitlement to child support or alimony payments.

(c) In the event that a governmental entity, which is authorized under this section or regulations issued to carry out this section to accept service of process, pursuant to the provisions of subsection (a), is served with more than one legal process with respect to the same moneys due or payable to any individual, then such moneys shall be available to satisfy such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

Definitions[1]

Sec. 462. For purposes of section 459—

(a) The term "United States" means the Federal Government of the United States, consisting of the legislative branch, the judicial branch, and the executive branch thereof, and each and every department, agency, or instrumentality of any such branch, including the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, any office, commission, bureau, or other administrative subdivision or creature thereof, and the governments of the territories and possessions of the United States.

(b) The term "child support," when used in reference to the legal obligations of an individual to provide such support, means periodic payments of funds for the support and maintenance of a child or children with respect to which such individual has such an obligation, and (subject to and in accordance with State law) includes but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children; such term also includes attorney's fees, interest, and court costs, when and to the extent that the same are expressly made recoverable as such

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[1] Section 462 was added by sec. 501(d) of P.L. 95-30.

pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

(c) The term 'alimony," when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of such individual, and (subject to and in accordance with State law) includes but is not limited to, separate maintenance, alimony pendente lite, maintenance, and spousal support; such term also includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction. Such term does not include any payment or transfer of property or its value by an individual to his spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(d) The term "private person" means a person who does not have sovereign or other special immunity or privilege which causes such person not to be subject to legal process.

(e) The term "legal process" means any writ, order, summons, or other similar process in the nature of garnishment, which—

(1) is issued by (A) a court of competent jurisdiction within any State, territory, or possession of the United States, (B) a court of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor such process, or (C) an authorized official pursuant to an order of such a court of competent jurisdiction or pursuant to State or local law, and

(2) is directed to, and the purpose of which is to compel, a governmental entity, which holds moneys which are otherwise payable to an individual, to make a payment from such moneys to another party in order to satisfy a legal obligation of such individual to provide child support or make alimony payments.

(f) Entitlement of an individual to any money shall be deemed to be "based upon remuneration for employment," if such money consists of—

(1) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes but is not limited to severance pay, sick pay, and incentive pay, but does not include awards for making suggestions, or

(2) periodic benefits (including a periodic benefit as defined in section 228(h)(3) of this Act) or other payments to such individual under the insurance system established by title II of this Act or any other system or fund established by the United States (as defined in subsection (a)) which provides for the payment of pensions, retirement or retired pay, annuities, dependents or survivors' benefits, or similar amounts payable on account of personal services performed by himself or any other individual (not including any payment as compensation for death under any Federal program, any payment under any Federal program established to provide "black lung" benefits, any payment by the Veterans' Administration as pension, or any payments by the Veterans'

Administration as compensation for a service-connected disability or death, except any compensation paid by the Veterans' Administration to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation), and does not consist of amounts paid, by way of reimbursement or otherwise, to such individual by his employer to defray expenses incurred by such individual in carrying out duties associated with his employment.

(g) In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

(1) are owed by such individual to the United States,

(2) are required by law to be, and are, deducted from the remuneration or other payment involved, including but not limited to, Federal employment taxes, and fines and forfeitures ordered by court-martial,

(3) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and if amounts withheld are not greater than would be the case if such individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1954 may be permitted only when such individual presents evidence of a tax obligation which supports the additional withholding),

(4) are deducted as health insurance premiums,

(5) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage), or

(6) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

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APPENDIX C
Appropriations for the Child Support Enforcement Agency
FY 77 -- FY 82

APPENDIX C
Child Support Enforcement Agency
Appropriation By Funding Source
State FY 77 -- FY 82
(Thousands)

	FY 77 ACT.	FY78 ACT.	FY79 ACT.	FY80 ACT.	FY81 AUTH.	FY82 GOV.
Federal Receipts	$104.7	779.9	1280.4	1505.1	1478.3	1869.0
General Fund Match	401.2	667.4	403.2	504.3	604.7	620.0
General Fund					300.9	
Program Receipts*	75.6	33.0	33.1	70.1	49.0	75.0
Other Funds		19.5				
Total	$581.5	1499.8	1716.7	2079.5	2432.9	2564.0

* Program Receipts include incentive payments from other states.

APPENDIX D
Child Support Enforcement Agency
Proposed Fee Schedule

CHAPTER 147

CHILD SUPPORT ENFORCEMENT AGENCY

15 AAC 147.120 is amended by adding a new section to read:

15 AAC 147.120 FEES FOR AGENCY SERVICES. (a) Fees shall be charged in all cases where a written application for agency services has been executed pursuant to section 110 (a)(1) of these regulations but will not apply to applications executed pursuant to section 110 (a)(2) and (3) of these regulations.

(b) An application fee shall be computed and if applicable shall be paid by the obligee at the time of initial application for agency services on all cases opened or reopened after January 1, 1981. The application fee will be computed and paid as follows:

(1) The agency will determine the obligee's ability to pay by requiring a notarized statement of the obligee's gross annual income and the size of the family unit.

(2) There is no application fee when the obligee's gross annual income is 125% of the poverty level or lower. The application fee is $10.00 when the obligee's gross annual income is above 125% of the poverty level and up to 200% of the poverty level. The application fee is $20.00 when the obligee's gross annual income is more than 200% of the poverty level. For computation purposes the obligee's annual income may be reduced by any extra ordinary mandatory expenses which will be continuous and are not payment for consumer goods or services.

AN APPLICATION FEE SCHEDULE BASED UPON AN OBLIGEE'S ABILITY TO PAY USING THE 1980 POVERTY LEVEL IS ATTACHED AS EXAMPLE No. 1.

(3) After a written withdrawal of services has been submitted by the obligee, any re-application for services will require a new application fee.

(c) A service fee based on the cost of the total expected child support enforcement services shall be computed and if applicable a percentage of this cost shall be paid by the obligee with the application fee. The percentage of the service fee shall be paid prior to the start of each new service required or requested after January 1, 1981. The agency shall notify the obligee when an additional service is required and obtain payment of the additional fee before the agency will provide the new service. The total service fee and the percentage to be paid shall be computed as follows:

(1) Agency services and the related service fees after January 1, 1981 are as follows:

(A)	Location	$ 25.00
(B)	Establishment of paternity	960.00
(C)	Establishment of support obligation	510.00
(D)	Modifying a support obligation	80.00
(E)	Collection of delinquent support obligation on an annual basis	120.00

The agency will annually adjust the fee for each service according to the change in the consumer price index, rounded to the nearest $5.00 increment.

(2) Prior to charging the service fee the agency will determine the obligee's ability to pay and the related percentage of the service fee to be paid. To make this determination the agency will require a notarized statement of the obligee's gross annual income and the size of the family unit.

(3) The percentage of the total service fee to be paid is 0% when the obligee's gross annual income is 125% of the poverty level or lower. The percentage of the total service fee to be paid is 50% when the obligee's gross annual income is above 125% of the poverty level and up to 200% of the poverty level. The percentage of the total service fee to be paid is 100% when the obligee's gross annual income is more than 200% of the poverty level. For computation purposes the obligee's gross annual income may be reduced by any extra ordinary mandatory expenses which will be continuous and are not payment for consumer goods or services.

A PROJECTED COST SCHEDULE BASED UPON AN OBLIGEE'S ABILITY TO PAY USING THE 1980 POVERTY LEVEL IS ATTACHED AS EXAMPLE No. 2.

(d) If an obligee presents a check to the agency in payment of the application or service fee which is backed by insufficient funds, the agency will:

(1) Notify the obligee of the bad check and,
(2) Administratively suspend all work on the case and hold all monies received pending resolution of the bad check.
(3) If no resolution occurs within 60 days the case will be closed. Any monies collected will be returned to the obligor.

(e) An ongoing processing fee shall be computed and if applicable be collected as a percentage of each payment. The fee shall be deducted from each incoming payment and the remainder forwarded to the obligee with an accounting. The processing percentage shall be computed as follows:

(1) Prior to collecting and retaining the processing fee the agency will determine the obligee's ability to pay by requesting a notarized statement of the obligee's gross annual income and the size of the family unit.

(2) The percentage of the collections to be retained is 0% when the obligee's gross annual income is 125% of the poverty level or lower. The percentage of the collections to be retained is 5% when the obligee's gross annual income is above 125% of the poverty level and up to 200% of the poverty level. The percentage of collections to be retained is 10% when the obligee's gross annual income is above 200% of the poverty level. For computation purposes the coligee's annual income may be reduced by any extra ordinary mandatory expenses which will be continuous and are not payment for consumer goods or services.

(3) The processing fee percentage may be redetermined based upon a change in circumstances of the obligee. This redetermination will be done upon submission of a new notarized statement of the obligee's gross annual income and the size of the family unit.

Authority: AS 47.23.100

A PROCESSING FEE SCHEDULE BASED UPON AN OBLIGEE'S ABILITY TO PAY USING THE 1980 POVERTY LEVEL IS ATTACHED AS EXAMPLE NO. 3.

15 AAC 147.160(3) is amended to read:

(3) "application" means a signed request for child support enforcement and when applicable includes a complete notarized statement of the obligee's gross annual income and the size of the family unit.

15 AAC 147.160 is amended by adding new sub-sections (6), (7), (8), (9), and (10)

(6) "consumer price index" means the All Urban Consumer Price Index (CPIU) as compiled by the United States Department of Labor, Bureau of Labor Statistics, for Anchorage, Alaska.

(7) "gross annual income" means gross income from all sources of an individual as defined in Section 61 of the 1954 Internal Revenue Code as amended.

(8) "obligee" means the custodial parent or person who has physical custody and responsibility for the dependent or minor child to whom a duty of support is owed.

(9) "poverty level" means the poverty level guideline as annually established by the United States Office of Management and Budget for the State of Alaska.

(10) "size of the family unit" means the obligee and all dependents living with the obligee for which the obligee is legally responsible.

Example No. 1

Application Fee
Based on 1980
Poverty Level

Application Fee	None	$10.00		$20.00
Size of the family unit*	Annual Income Not more than	Annual Income More Than	But Not More Than	Annual Income More Than
2	7,850	7,850	12,560	12,560
3	9,750	9,750	15,600	15,600
4	11,650	11,650	18,640	18,640
5	13,550	13,550	21,680	21,680
6**	15,450	15,450	24,720	24,720

* includes the obligee
** for larger families add $1,520 to the annual income for each additional dependent.

Example No. 2

Projected Cost Fee
Based on 1980
Poverty Level

% of Fee to be Paid	0%	50%		100%
Size of the family unit*	Annual Income Not more than	Annual Income More Than	But Not More Than	Annual Income More Than
2	7,850	7,850	12,560	12,560
3	9,750	9,750	15,600	15,600
4	11,650	11,650	18,640	18,640
5	13,550	13,550	21,680	21,680
6**	15,450	15,450	24,720	24,720

* includes the obligee
** for larger families add $1,520 to the annual income for each additional dependent.

Example No. 3

Processing Fee
Based on 1980
Poverty Level

% of Collection to be Retained	0%	5%		10%
Size of the family unit*	Annual Income Not More Than	Annual Income More Than	But Not More Than	Annual Income More Than
2	7,850	7,850	12,560	12,560
3	9,750	9,750	15,600	15,600
4	11,650	11,650	18,640	18,640
5	13,550	13,550	21,680	21,680
6**	15,450	15,450	24,720	24,720

* includes the obligee
** for larger families add $1,520 to the annual income for each additional dependent.

APPENDIX E
Child Support Enforcement Agency
Regulations Enabling Administrative Establishment of
Child Support Orders

(5) Transportation deduction in the amount of $170 per month, which represents an average of 1000 miles per month times $.17 per mile.

(6) Housing deduction computed by multiplying the monthly gross income times .25.

(7) Mandatory expenses not included in any of the specific deductions provided for. This deduction may not include payment for consumer goods or services.

(b) The monthly child support obligation will be computed by multiplying the amount per child from the table provided in (c) of this section times the number of children for whom support is requested. The amount per child is determined from the table by locating the line in the net income column which includes the amount computed in (a) of this section and reading across to the vertical column representing the number of children under age 18 which the obligor has a legal obligation to support. This amount shall be paid by the obligor in accordance with a payment schedule acceptable to the agency.

(c) The TABLE OF MONTHLY OBLIGATION PER CHILD is based on the assumption that there is a family unit consisting of two parents and children whom the obligor has a legal obligation to support and that each child is entitled to a pro-rata share of the obligor's net income. Thus, in a family with two children, each child is entitled to 1/4 of the net income; if there were three children each child would be entitled to 1/5 of the obligor's net income.

TABLE OF MONTHLY OBLIGATION PER CHILD

Obligor Net Income	Number of Dependent Children							
	1	2	3	4	5	6	7	8 or more
0 - 50	25	25	25	25	25	25	25	25
51 - 100	25	25	25	25	25	25	25	25
101 - 150	40	30	25	25	25	25	25	25
151 - 200	60	45	35	30	25	25	25	25
201 - 250	75	55	45	40	30	30	25	25
251 - 300	90	70	55	45	40	35	30	30
301 - 350	110	80	65	55	45	40	35	30
351 - 400	125	95	75	60	55	45	40	40
401 - 450	140	105	85	70	60	55	45	40
451 - 500	160	120	95	80	70	60	55	50
501 - 550	175	130	105	90	75	65	60	50
551 - 00	190	145	115	95	80	70	65	60

Obligor Net Income	Number of Dependent Children							
	1	2	3	4	5	6	7	8 or more
601 - 650	210	155	125	105	90	80	70	60
651 - 700	225	170	135	110	95	85	75	70
701 - 750	240	180	145	120	105	90	80	70
751 - 800	260	195	155	130	110	95	85	80
801 - 850	275	205	165	140	120	105	90	80
851 - 900	290	220	175	145	125	110	95	90
901 - 950	310	230	185	155	130	115	105	90
951 -1,000	325	245	195	160	140	120	110	100
1,001 -1,050	340	255	205	170	145	130	115	100
1,051 -1,100	360	270	215	180	155	135	120	110
1,101 -1,150	375	280	225	190	160	140	125	110
1,151 -1,200	390	295	235	195	170	145	130	120
1,201 -1,250	410	305	245	205	175	155	135	120
1,251 -1,300	425	320	255	210	180	160	140	130
1,301 -1,350	440	330	265	220	190	165	145	130
1,351 -1,400	460	345	275	230	195	170	155	140
1,401 -1,450	475	355	285	240	205	180	160	140
1,451 -1,500	490	370	295	245	210	185	165	150
1,501 -1,550	510	380	305	255	220	190	170	150
1,551 -1,600	525	395	315	260	225	195	175	160
1,601 -1,650	540	405	325	270	230	205	180	160
1,651 -1,700	560	420	335	280	240	210	185	170
1,701 -1,750	575	430	345	290	245	215	190	170
1,751 -1,800	590	445	355	295	255	220	195	180
1,801 -1,850	610	455	365	305	260	230	205	180
1,851 -1,900	625	470	375	310	270	235	210	190
1,901 -1,950	640	480	385	320	275	240	215	190
1,951 -2,000 AND OVER	660	495	395	330	280	245	220	200

(d) When an obligor is in arrears, an additional amount may be collected as part of the scheduled payment and will be applied against outstanding arrearages due from the obligor. The amount will be established at 25% of the monthly obligation as determined in (c) of this section; however, the agency and obligor may agree in writing to a greater or lesser amount depending on the obligor's financial situation.

(e) When the agency has made a reasonable effort to obtain the financial information necessary to compute the monthly obligation and has been unsuccessful or the obligor has provided false information to the agency, the monthly support obligation shall be the greater of the following:

(1) The AFDC monthly grant

(2) An amount computed using the process set out in (a) and (b) of this section and based on a gross income estimated by the agency from the best available information.

(f) The method of calculation set out in (a), (b) and (c) of this section is based on the obligor's ability to pay; however, the agency and obligor may enter into a written agreement for payment of monthly support obligations of an amount greater or lesser than the amount calculated, when the needs of the family or other circumstances justify such a change. (Eff. / / , Reg.)

Authority: AS.47.23.140

15 AAC 40.020 HEARING - SCHEDULE OF DATE, TIME AND PLACE. (a) Administrative hearings requested by a person receiving a notice and finding of financial responsibility or by a person petitioning for modification of a finding or determination of support obligation previously entered will be conducted in accordance with the provisions of AS 47.23.170 and AS 47.23.190 and will be held at the agency offices or other location determined by the agency, giving due consideration to any reasonable request of the person requesting the hearing.

(b) A notice of hearing will be mailed to the person requesting the hearing no less than 20 days prior to the hearing date. (Eff. / / , Reg.)

Authority: AS 47.23.020
AS 47.23.170
AS 47.23.190

15 AAC 40.030. HEARING - RESCHEDULING (a) The hearing officer shall grant any reasonable request by the person requesting the hearing for a change in the time, date or place of the hearing;

(1) where the request for change is delivered to the agency at least five working days prior to the scheduled hearing date; and

(2) where the person making the request has not previously requested a change in the time, date or place of hearing.

(b) Requests which fail to meet the criteria of (a) (1. and (2) of this section will be granted by the hearing officer only if in his judgement the person making the request has demonstrated clearly that it is due to circumstances beyond his control. (Eff. / / ,Reg.)

Authority: AS 47.23.020
AS 47.23.170
AS 47.23.190

15 AAC 40.040 CONDUCT OF HEARING. (a) The hearing officer shall exercise control over the proceedings.

(b) During the hearing, strict rules of evidence shall not apply. The hearing officer may accept any relevant evidence which he has reason to believe may be accurate.

(c) The hearing officer may accept a certified copy of the official agency record in the case, excluding all documents not relevant to the question of support.

(d) At least five days before the hearing, the agency will make available to the person requesting the hearing, copies of all records the agency intends to produce at the hearing. (Eff. / / , Reg.)

Authority: AS 47.23.020
AS 47.23.170
AS 47.23.190

15 AAC 40.050 HEARING - BURDEN OF PROOF. At a hearing on the agency's determination of a support obligation, the person requesting the hearing shall have the burden of proving;

(1) that a valid Alaska court order is in existence which covers the support obligation in question; or

(2) that no duty of support is owed; or

(3) that the amount of support obligation determined by the agency is incorrect because the financial circumstances of the obligor are not as the agency has determined. (Eff. / / , Reg.)

Authority: AS 47.23.020
AS 47.23.170
AS 47.23.190

15 AAC 40.060 RESERVED
15 AAC 40.070 RESERVED
15 AAC 40.080 RESERVED
15 AAC 40.090 RESERVED
15 AAC 40.100 RESERVED

ARTICLE 2.

GENERAL PROVISIONS

Section
110. Agency Services
120. Reserved
130. Bad Check Fee
140. Overdue Payment Fee
150. Service of Administrative Process
160. Definitions

15 AAC 40.110 AGENCY SERVICES (a) Child support services will be provided to minor children or their custodian

(1) for whom a written application for agency services has been executed and accepted, or

(2) upon notification by the Deparment of Health and Social Services that the children are recipiants of public assistance under Title IV-A of the Social Security Act (42 USC § 601) or that the state is incurring costs for foster or institutional care; or

(3) upon receipt of a petition or complaint initiated under the Uniform Reciprocal Enforcement of Support Act of this or another state in accordance with Title IV-D of the Social Security Act (42 USC § 651).

(b) An obligor may obtain agency services upon completion and acceptance of a written application for agency services. (Eff. / / , Reg.)

Authority: AS 47.23.020
AS 47.23.040
AS 47.23.045
AS 47.23.080
AS 47.23.100
AS 47.23.140

15 AAC 40.120 RESERVED

15 AAC 40.130 BAD CHECK FEE. If any check is presented to the agency in payment of any amount due for a child support obligation and is dishonored by the drawee upon presentment for the reason that the maker's account has insufficient funds, the obligor shall be liable to the agency upon notice in the amount of $10. All future payments of the obligor may be required in cash funds or certified negotiable instruments. (Eff. / / , Reg.)

Authority: AS 47.23.020

15 AAC 40.140 OVERDUE PAYMENT FEE. (a) Whenever the amount due for a child support obligation has not been received by the agency within 10 days after the due date specified in the superior court order, notice and finding of financial responsibility, or hearing officer's decision, a late payment fee may be assessed against the obligor upon notice by the agency. The fee shall be added to and collected using the same means as for the obligated amount.

(b) The overdue fee, which may be assessed for any single payment past due, shall be $10 or 5% of the obligated amount, whichever is greater.

(c) The date of receipt of a payment by the agency will be the date on the agency's official receipt if paid in person or the postmark on payments received through the U. S. mail. (Eff. / / , Reg.)

Authority: AS 47.23.020

15 AAC 40.150. SERVICE OF ADMINISTRATIVE PROCESS. Service of a notice of hearing, notice of liability, notice and finding of financial responsibility, assertion of lien, order to withhold and deliver, demand for delivery, or other administrative notice or process of the agency may be made in the following ways:

(1) In person by a peace officer, law enforcement officer or any person authorized to serve civil process in the state of Alaska personally, as follows:

(A) Individuals. Upon an individual other than an infant or an incompetent person, by delivering a copy to him personally, or by leaving a copy at his dwelling house or usual place of abode with some person of suitable age and discretion residing there.

(B) Corporations. Upon a domestic or foreign corporation, by delivering a copy to an officer or a managing or general agent at the principal place of business within the state of Alaska, or to any other agent authorized by appointment or by law to receive service of process.

(C) Infants. Upon an infant by delivering a copy to the infant personally and also to his father, mother, or to any person of suitable age and discretion having the care or control of the infant, or with whom he resides.

(D) Partnerships. Upon a partnership, by delivering a copy personally to a member of such a partnership, or to a managing or general agent of the partnership, or to any other agent authorized by appointment or by law to receive service of process, or to a person having control of the business of the partnership.

(E) Unincorporated Associations. Upon an unincorporated association, by delivering a copy personally to an officer, a managing or general agent, or to any other person authorized by appointment or by law to receive service of process.

(F) Officer or Agency of the State or Federal Government. Upon an officer or agency of the state or federal government by delivering a copy to such officer or head of the agency, or to the person designated by the head or chief executive officer thereof to accept service of process.

(2) By registered, certified, or insured mail, return receipt requested, for restricted delivery only to the person to whom the notice is directed or to the person authorized to receive that person's restricted delivery mail. (Eff. / / , Reg.)

Authority: AS 47.23.150
AS 47.23.160

15 AAC 40.160. DEFINITIONS. Unless the context indicates otherwise, when used in this chapter

(1) "agency" means the Alaska Child Support Enforcement Agency;

(2) "AFDC" means public assistance granted under the program of Aid to Families With Dependent Children;

(3) "application" means a signed request for child support enforcement services;

(4) "child support enforcement services" include, but are not limited to

(A) location of absent parents;
(B) establishment of support obligations;
(C) enforcement of support obligations;
(D) collection and distribution of child support payments;
(E) establishing paternity;
(F) responding to and initiating actions under the Uniform Reciprocal Enforcement of Support Act (AS 25.25.010-AS 25.25.270).

(5) "periodic payments" means the amount to be paid in regularly scheduled installments in satisfaction of the support obligation. When applicable it also refers to regularly scheduled payments to satisfy past due obligations. (Eff. / / , Reg.)

Authority: AS 47.23.010
AS 47.23.020
AS 47.23.110
AS 25.25.010

HOUSE RESEARCH AGENCY REPORTS

80-1 Inventory of Communications Facilities Serving Alaska Communities
February 1980

80-2 Preliminary Economic Evaluation of NGL-Based Petrochemical Production in Alaska
October 1980

80-3 Markets for Alaskan Coal
January 1981

80-4 Coal Leasing and Taxation
January 1981

80-5 Coastal Protection Funds
January 1981

80-6 The University of Alaska: An Overview of Programs and Expenditures
January 1981

80-7 Child Support Enforcement: Alaska's Program in Perspective
January 1981

80-8 Alaska Surface Coal Mining Program
February 1981

80-9 Potential for Coal Use in Rural Alaska
February 1981

80-10 Chugiak Senior Citizens: Housing and Health Care Study
February 1981

80-11 Synopsis of Telecommunications Reports Prepared under Contract to the House Research Agency
February 1981

80-12 Airships
February 1981

80-13 Research Monographs on Indochinese Refugee Resettlement
February 1981

Bill would make joint child custody the rule

y Carol Murkowski
Times Writer

Shared parenting could be the ule, rather than the exception, if a roposed bill on joint child custody asses the 1982 state Legislature.

Some 37 states already have or re considering joint custody, in hich both parents share in making ecisions about their children, rather han just the parent who has physi- al custody. House Bill 210 is now be- ore the Health, Education and So- ial Services Committee, and hear- ngs will be held Friday at the Leg- ilative Affairs office in Anchorage nd via teleconference in Fairbanks.

The bill will require judges to first consider a joint custody agreement in awarding child custody. If parents object to joint custody, they may contest it.

"Joint custody does not necessarily mean equal time; it means equal responsibility and equal rights legally," said Rudy Johnson, president of Equal Rights for Fathers of Alaska, which is backing the bill.

Today, Johnson said, a parent who does not have custody of his children cannot authorize emergency medical treatment, take part in a parent-teacher conference, obtain school records, or visit a hospitalized child without the consent of the custodial parent.

Johnson told of a father whose six children are in Minnesota, who has been denied his visitation rights for three years. "There's no allegation of child abuse or unfitness," Johnson said. "It's just an angry custodial parent."

While he and his wife's attorneys wrangled in court, the father's letters and presents to the children were returned. Recently, when he learned that one daughter was to undergo open-heart surgery, the father went to Minnesota to be with her; the doctor told him his ex-wife refused to let him see the girl.

Shortly after the daughter's surgery, a son was killed in a car accident. The father was denied a visit to the funeral home. "The funeral director was shocked, but his hands were tied," Johnson said.

Two weeks ago, the father received the bill for the funeral he was not allowed to attend.

Such animosity between parents is one argument often quoted by opponents of the bill. If parents cannot get along while they're married, how are they to agree on the issues of child-rearing when they're divorced?

In a letter to the House HESS committee, Superior Court Judge Victor Carlson argued that HB 210 "would result in many opportunites for confrontation in which the child would be caught in the middle, e.g. the choice of a school, public or private, alternative or basic, etc. Neither parent would have the authority to make the decision and the child would be torn in having to make a choice and then the matter, ultimately, would have to be decided by the court."

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Divorced father seeks clues to son's wherabouts

y Carol Murkowski
Times Writer

The only clue Ray Hitchcock has o his three-year-old son's whereabouts is a faded newspaper clipping escribing the boy as the youngest anglider in Oregon.

Hitchcock's ex-wife, her new husband, and young Ryan quietly left nchorage two days after Hitchcock ot a court order enforcing his right o visit Ryan. Although he has visitation rights, he has not seen or heard rom his son since July.

He knows that Ryan has been in regon, and is probably living in outhern California now; he knows hat the boy is hangliding with his tepfather; he knows that Ryan is eing taught that his last name is not litchcock.

And, although the courts tell him hat his ex-wife is in the wrong, he nows there's not much he can do bout it.

One of the group's efforts comes up for a hearing Nov. 20 in Anchorage and Fairbanks. House Bill 210 would encourage joint custody arrangements, in which one parent would have physical custody of children, but both would share in the legal, financial and moral obligations to the children.

The bill would help parents like Hitchcock, says Rudy Johnson, president of Equal Rights for Fathers.

"Ray is a perfect example of what happens without joint custody, when parents are forced into litigation to have access to their children," says Johnson.

With joint custody, "at least I'd have a say in what they were teaching my son," Hitchcock adds.

Hitchcock, 28, and his wife Vicki, 28, were married in 1975 and divorced four years later. Vicki was awarded custody of their son Ryan, and a visitation schedule — alternate weekends and one month in summer — was set up.

However, Hitchcock says, Vicki and her new husband often refused to comply with the visitation order, hiding, refusing to let Hitchcock take Ryan for the weekend, and twice beating Hitchcock.

"When I went over, I'd follow the law to the letter," recalls Hitchcock, a stocky young man whose arms are covered with tattoos. "I'd keep my hands in my pockets, and always take somebody with me." Once, when he was refused Ryan, he filed for a writ of assistance, and a state trooper accompanied him to pick up Ryan; even with the trooper's presence, Ryan was not released until Vicki and her husband were threatened with arrest.

In February, Hitchcock filed a suit to enforce his visitation rights. Two days after the court agreed to enforce the order, Vicki left the state.

Her last address was Rockaway, Ore., but Hitchcock hears she has since moved to California. He has been told by Vicki's friends and relatives that she will get in touch with him in the spring, when his summer visitation rolls around.

Hitchcock is worried that Ryan's stepfather takes the boy hangliding with him. The newspaper article he received from Oregon says that Ryan "understands there is a very high element of risk and danger," and Hitchcock is unhappy about it. "I don't have any say in something that I think is dangerous for my son," he says.

The article also uses Ryan's stepfather's name — Griffeth — instead of Hitchcock.

"If Ryan decides one day that his stepfather has been more of a father to him, and he wants to change his name legally, that should be his choice. I'd be hurt, but I wouldn't interfere," Hitchcock says. "But that decision should not be made for him while he's still too young to decide."

Hitchcock admits he has had some bad times in his past which might prevent asking for full custody of his son. He admits to a bout with alcoholism and suicidal tendencies after his divorce, but a psychologist has "assured me that those are normal post-divorce reactions."

He says he is fine now, and "the court has been on my side all the way."

The court ordered Vicki's attorney to find her and tell her to notify Hitchcock and the court where she was living, or a warrant would be issued for her arrest. She complied this summer, and Hitchcock took Ryan for his summer visit in July.

"But since my son left July 30, I have not seen him or heard of him at all," he says. "Apparently she feels I don't have the right to know whe Ryan is 11 out of 12 months. But still have to pay child support, and feel I have the right to write my s once in awhile."

In the meantime, he's tryi other avenues. He wanted to put a ad in the Los Angeles Times placi a reward for information on Ryan whereabouts, bu' he can't afford t $1,400 it would cost. Neither can I afford a privat detective.

And he's researching cases which "alienation of affection" h been proven, hoping to use it again Vicki. If he can, he'll ask for temp rary custody of Ryan until Vicki ca come to court and explain her a tions. If he doesn't hear from her t spring, when Ryan's annual vis should be arranged, he plans to a for a hearing to show cause why sh is not following the court's orders.

"Until then, my hands are tied."

Hitchcock is a member of Equal ights for Fathers of Alaska, a roup that has been getting its name the news with increasing fre- uency by lobbying for changes in omestic relations law.

HB210

LAW

Visitation Rights For Grandparents

By Roslyn Kramer and Dolores Walker

Disruption of the family unit — whether through divorce, legal separation or the death of a parent — can be as devastating for grandparents as it is for parents and children. After years of frequently seeing their grandchildren, often they must adjust to limited visits or be cut off completely.

Until recently, grandparents were found to have no legal standing in such cases. But now at least 33 states have some form of grandparents' visitation law. These statutes have altered the traditional legal view that only the custodial parents have the right to determine whom their children see.

Thirty-three states now have grandparents' visitation laws.

Partly because this is such a new field, grandparents' visitation law is a mercurial area which varies from state to state and court to court — and difficulties remain. The following examples give an overview of areas to explore with a lawyer in the event of visitation problems.

A typical problem arises in the case of divorce, when one parent loses custody and visitation and the custodial parent won't let his or her former in-laws see their grandchildren. Some courts have recognized grandparents' right to visitation even though their child does not have it. For example, in a 1981 Indiana Court of Appeals case, the grandparents put up a fight for visitation when their daughter was accused of abandonment. Although Indiana does not have a written law giving grandparents the right to go into court to ask for visitation, the court ruled that under certain circumstances grandparents have visitation rights separate from those of their children.

In certain cases in which divorce has meant an increase in physical distance between grandparents and grandchildren, some grandparents have intervened and successfully won visitation rights. In a Tennessee divorce case, a father who had visitation rights was ordered by the court to take his children to his parents' home in a distant community for visits. This 1969 case went a long way in assuring grandparents that a move to another community will not necessarily mean the end of all contact.

Courts have also considered cases in which a parent dies and the grandparents want to be sure of contact with the grandchildren. Two 1977 cases, involving the death of the mother and an attempt on the part of her parents to gain visitation, contributed to the passage of a 1980 Georgia amended visitation statute which provides that grandparents may sue for visitation in the event of their child's death. More than 20 states have similar laws.

Visitation laws frequently conflict with adoption laws, however. Most courts deny visitation to natural grandparents if the child is adopted by total strangers. But courts disagree about whether or not to grant visitation if the natural parent dies and the stepparent adopts the child.

Grandparents won in a 1975 New Jersey suit when the father remarried after the mother's death, and the child was adopted by the second wife.

But courts tend to look with less favor on those situations in which, clearing the way for the stepparent to adopt, the natural parent signs away all rights to the child. Frequently, grandparents lose their visitation rights as a result.

It can't be emphasized enough that with any legal change in family relationships, grandparents should attempt to get their rights specifically defined in the agreement or by court decree. If neither the child nor the child's lawyer will help, the grandparents should get their own lawyer, preferably one who is experienced in family law in the state where the legal change is taking place.

For further information on lobbying for laws to protect rights of children and grandparents contact: Lee and Lucile Sumpter, Dept. FW, Grandparent-Children's Rights, Inc., 5728 Bayonne Avenue, Haslett, Michigan 48840, or Grandparents Anonymous, Dept. FW, 536 West Huron, Pontiac, Michigan 48053.

Dolores Walker is an attorney practicing in New York City and Roslyn Kramer is a free-lance writer.

Joint Custody Title

Child custody legislation awaits final passage

ociated Press

Juneau — Legislation to re-mp Alaska's child custody law d encourage judges to award di-orced parents joint custody of their children won near-final passage Sunday.

The Senate voted unanimously to approve the bill, which already passed the House. The Senate made some changes to the measure, but chief sponsor Rep. Brian Rogers, D-Fairbanks, said he will recommend the House accept the amendments.

The Senate's action came during a rare Sunday floor session called by Senate leaders. The House met briefly, but did not act on any legislation.

Under the bill, a judge would be encouraged to order shared custody if the judge determines it in the best interests of the child.

The bill calls for a judge to consider several factors in determining custody: the child's preference, stability of the home environment, educational opportunities, advantages of keeping the child in the community where he or she resides, the optimal time for the child to spend with each parent, special needs of the child that may be better met by one parent, and which parent is more likely to encourage frequent contact with the other parent.

One of the changes made by the Senate was to delete a provision in the House bill mandating that parents go through a mediation effort to try to agree on custody without going into court.

The Senate bill allows a judge to order mediation, but does not mandate it.

As passed by the House, the bill required that a couple, within 30 days after filing a petition for child custody, enter into mediation to try to work out a custody agreement. Each parent could challenge one mediator appointed by a judge.

After the initial mediation conference, either parent could withdraw. The custody dispute then would be decided in court. The Senate bill calls for the same process, but does not mandate it.

Sen. Pat Rodey, D-Anchorage, said he favors mandatory mediation. However, he said it would cost the state an estimated $450,000 a year to pay mediation costs for low-income people, and to see that children are represented.

When the legislation originally was introduced it sought to mandate joint custody awards, but it subsequently was revised to simply encourage shared custody awards.

According to a study done by court officials for the first part of 1981, custody was granted to fathers in 22.5 percent of the cases, to mothers in 42 percent, children were split in 13.8 percent and joint custody was awarded in 21.2 percent of the cases.

However, representatives of Alaskans for Childrens' Rights, a group fighting for more custody awards for fathers, claims that since 1977 only about 5 percent of the custody awards have gone to fathers.

3 capital nove public hearings set

The New Capital Site Planning mmission moves to Nome Wed-esday for a public hearing on

Bill would make joint child custody the rule

by Carol Mikowski
Times Writer

Shared parenting could be the rule, rather than the exception, if a proposed bill on joint child custody passes the 1982 state Legislature.

Some 37 states already have or are considering joint custody, in which both parents share in making decisions about their children, rather than just the parent who has physical custody. House Bill 210 is now before the Health, Education and Social Services Committee, and hearings will be held Friday at the Legislative Affairs office in Anchorage and teleconference in Fairbanks.

The bill will require judges to first consider a joint custody agreement in awarding child custody. If parents object to joint custody, they may contest it.

"Joint custody does not necessarily mean equal time; it means equal responsibility and equal rights legally," said Rudy Johnson, president of Equal Rights for Fathers of Alaska, which is backing the bill.

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Thurs, Jan. 14

Judge defends record on child custody

by Maureen Blewett
Times Writer

The presiding judge of the Anchorage Superior Court said Tuesday a divorced fathers group misread the statistics when it accused nine local judges of discriminating against fathers in child custody cases.

Equal Rights for Fathers of Alaska filed a lawsuit in federal court here Monday saying Anchorage judges discriminate against divorced fathers by awarding children to the mother. The lawsuit was filed in U.S. District Court by Miami lawyer Edward J. Winter Jr.

"Whether articulated or not," the lawsuit said, "the Maternal Preference Doctrine is the . . . illegal basis for . . . child custody litigation awards."

But presiding Judge Mark Rowland said Tuesday the Alaska Supreme Court rejected the maternal preference theory in 1977. The opinion, which said the court "expressly rejects" the doctrine, was written in Johnson vs. Johnson, a case involving Equal Rights for Fathers president Rudy Johnson.

In addition, Rowland said, the fathers group misread the statistics when it said Alaska judges favored the mother in 275 out of 343 custody cases over the past two years.

In fact, those were not court awards in most cases, Rowland said. The court was simply approving a settlement reached by both parties.

A study of all but eight of the custody cases in the past two years shows that only 13 parents contested custody of the children, Rowland pointed out. Of these, nine awards were made to the mother and four to the father.

"There is no pattern of discrimination," Rowland said.

Child custody investigator Francis Stevens said today he felt it would be inappropriate to comment on a pending lawsuit. The judges and investigators will be represented by Assistant Attorney General Pat Kennedy.

Stevens had earlier said he disagreed with the fathers over what the data means.

Named in the lawsuit are Judges Victor Carlson, Karl Johnstone, Eben Lewis, Ralph Moody, Justin Ripley, Mark Rowland, Brian Shortell, James Singleton and Milton Souter. Two of the named judges have custody of their children.

Also named are custody investigator Stevens and assistant investigator Artis Cry.

Court eases child custody requirement

Associated Press

The Alaska Supreme Court ruled Friday that the lifestyle of a parent is relevant in child custody disputes only to the extent that it may be shown to affect the person's relationship to the child.

In a case involving a custody fight between Casey McBride of Skagway and Mary Craig Bird of Juneau, the court said Superior Court Judge Thomas Stewart improperly made reference to the mother's sexual conduct in reaching a decision.

Stewart awarded the father custody of a child born to the couple out of wedlock on grounds he offered the child a more stable environment.

He said, however, that in reaching his decision he was concerned that the mother had borne children out of wedlock and had demonstrated instability in terms of place or relationship.

In a majority opinion written by Justice Allen Compton, the Supreme Court said that was improper.

"At best, such comments tainted the court's decision; at worst, they suggest that the court interjected impermissible factors in the course of its deliberations," the Supreme Court said.

It said the record of the case offers little evidence of any adverse effect resulting from the the conduct of the mother, and that "a court's reference to such factors as a parent's sexual conduct often times intimates the court's denigration of a parent's chosen lifestyle."

"To avoid even the suggestion that a custody award stems from a lifestyle conflict between a trial judge and a parent, we reiterate that trial courts must scrupulously avoid reference to such factors absent evidence of an adverse effect to the parent-child relationship," the court said.

Compton and Justice Warren Matthews joined in the majority opinion, with Chief Justice Jay Rabinowitz concurring.

Justices Edmond Burke and Roger Connor dissented. They said the majority conceded Stewart was concerned with the respective stability of the father and mother and not their sexual conduct.

They said they agreed with that conclusion and, therefore, could see no reason to reverse Stewart's decision "simply because of Judge Stewart's reference to what the majority deems an "impermissible factor.'"

Bias Against Fathers In Child Custody Cases?

The other day we ran across some shocking statistics that should concern us all:

—40 per cent of all homicides are directly related to divorce.

—90 per cent of all women murdered between the ages of 20 and 30 are killed by their husbands.

—4 out of 5 women receiving welfare are products of divorce.

—90 per cent of the American prison population is from broken homes.

—Juvenile delinquency has increased proportionately with the skyrocketing divorce rate.

Considering the gigantic social problems and costs related to divorce should cause us to examine all aspects, at the least of which is the domestic relations courts that handle divorce cases. Are they really doing a fair and equitable job? Are the best interests of children of broken homes really being considered by the courts? Is there bias in the courts in favor of awarding children in contested divorce cases to mothers? Are studies of parental rights by social scientists biased?

In a recent study, the Family Law Reform and Action Council of Alaska answered the last mentioned question in this way:

"In 1958 a major sociological study of the American parent entitled 'The Changing American Parent' appeared, based on interviews with 582 mothers. It was not unique. Other studies of American parents by well respected psychologists and sociologists reveal the same phenomenon time and again; to write 'Patterns of Child Rearing,' psychologist Robert Sears and his colleagues at Stanford University interviewed 379 'parents' — all of them mothers; Robert Blood and Donald Wolfe based their 1960 study, 'Husbands and Wives the Dynamics of Married Living,' on interviews with 909 mothers and no fathers, and in a major study of divorced parents, Sociologist William Goode talked with 425 mothers and not one father.

"Even when a study entitled 'Father Participation in Infancy,' appeared in 1969 — one of the very first to acknowledge the possibility of interactions between fathers and their very young children — the authors admitted, to commendable honesty and obvious embarrassment that the study might have been better if they had actually observed the fathers, or even talked to them. 'It causes us great embarrassment,' said Frank A. Pedersen, Ph.D. and Kenneth S. Robson, J.D., 'to report that the actual data on father participation was secured by interviewing mothers. Perhaps we did not have the courage of our own convictions to do a proper observational study or to orient our work schedules to coincide with the availability of fathers.'"

And comes now another Anchorage group, Equal Rights for Fathers of Alaska, which answers with a definite yes the question of whether Anchorage superior court judges are biased in favor of mothers and against fathers in child custody cases. In fact, armed with an extensive month study of child custody cases decided by Anchorage judges in 1979 and 80, they have decided to file a class action suit against 13 Superior Court judges there and will seek an affirmative action plan to correct gross inequity in custody awards.

The study analyses 343 divorce cases in 1979 and 80 in which custody went to mothers, 80.2 per cent of the time, to fathers, 11.4 per cent and to joint custody, 7.3 per cent. Rudy Johnson, president of Equal Rights for Fathers of Alaska, says these statistics are bad enough, nearly twice the national average. But the study says that in cases of contested custody, fathers were awarded custody in only 2.6 per cent of the time.

Surely this matter deserves some attention by legislators and other state officials. In hearings this year on House Bill 210 — a measure which would require judges to state their reasons in detail if joint custody is not awarded in divorce cases, some Anchorage superior court judges in opposing the proposed legislation testified that custody of children was being awarded to fathers about 25 per cent of the time. Now, this recent study appears to contradict and refute that testimony.

One things is clear. All is not well in Alaska domestic relations courts. And there may indeed be a bias against fathers in child custody cases.

Letters to the Editor

Honorable Russ Meekins, Representative
Alaska State House
Chairman, House Task Force on Violent Crime

Dear Representative Meekins:

The members of the Parole Board applaud the work being done by the Legislature to identify and attempt to solve the problems we are having with violence throughout the State of Alaska. We are willing to assist the task force in any way we can, including providing you information about steps the board has taken to help curb violent crime in the community.

I just received a copy of the "House Task Force on Violent Crime Report to the First Session, Twelfth Alaska Legislature." June 1981. Overall the report is well written and documents the magnitude of violence in Alaska. However, there is a gross error in the prologue of the report that really detracts from the credibility of a valuable document. Unfortunately some staff person did not check out their facts and apparently took information from a newspaper article traditionally one of the most unreliable sources around if a person is interested in accurate information. The erroneous reporting is so inaccurate and damaging that we would request your task force print a retraction and correction to other members of the Legislature and the public are not misled about the case.

Let me list some of the facts of the case of Lee man written about on page 2 of the prologue. His name is Clifford Nukapigak, Sr. His name and his crimes are a matter of public record and were noted in a number of newspaper articles and at least one Alaska Supreme Court decision. However, Mr. Nukapigak was not *paroled* by the Alaska Parole Board. Parole is defined by the Alaska Statute 33.16.260(3) as "the release of a prisoner to the community by the Parole Board before the expiration of [illegible] term [illegible] imposed. He remained before the court pursuant to AS 33.30.040. This statute is commonly referred to as the "mandatory release" statute, the name used by the federal system from which our state statute was taken. Under this statute, offenders *not paroled* are released on supervision "as if on parole" for the number of days of good time they have earned, minus 180 days. *This* is the section under which Mr. Nukapigak was released. He was *not paroled* by the Parole Board.

Even though he was not paroled, the board members strongly encouraged Mr. Nukapigak to continue with the counseling he started in the jail. Since he was not paroled, the board had no authority to require he complete an alcohol program. He was certainly aware of the availability of such programming since the staff of the Fairbanks Comprehensive Alcohol Programs were running a program in the jail where he served his sentence. He was encouraged to take advantage of the alcohol program and apparently he was involved in mental health counseling to help him deal with his anger. If Clifford did not get involved in the C.A.P. program, it was because he did not go when he was released from jail, certainly an option that was available to him.

I cannot comment on the frequency of or the kind of supervision Mr. Nukapigak did or did not receive as this is the responsibility of the Division of Corrections probation officers. However, it appears even weekly contact would have made no difference in this case as Clifford was doing fairly well and abstained from the use of alcohol until the day before the homicides. Nothing short of continuous supervision or lack of access to alcohol would, have prevented these crimes.

In summary, Nukapigak was not paroled. The Parole Board kept him in jail as long as legally possible and strongly urged his continued involvement in counseling. He was released by operation of law on [illegible]

The Pioneer
ALL-ALASKA WEEKLY
[illegible] Phone [illegible] PO Box [illegible]
TOM STAFF
Publisher Editor

File Chris

Mediation cuts custody misery

A Times 3/11

by David N. Rosenthal
Knight-Ridder Newspapers

San Jose, Calif. — Kramer vs. Kramer might never have made it to court, let alone to the big screen, if a new California law had been in effect when Ted and Joanna Kramer began their brutal fight over custody of little Billy.

Because, as of Jan. 1, all couples getting divorced and fighting over custody of their children in the state must go through mediation counseling.

If, after such counseling, they still want to go through the gut-wrenching process depicted in the Oscar-winning movie, they are welcome to it.

"The new law would have destroyed the movie, but it might have saved the family," says Hugh McIsaac, the head of the Los Angeles conciliation court and a pioneer in mediation counseling. "It doesn't work for everyone, but those that it does work for are spared a lot of grief."

"In our case, it was definitely beneficial," says a 28-year-old San Jose woman who recently went through mediation with her husband of seven years over who would get custody of their three children. "We are one of those couples who cannot communicate."

She admits she was leery at first but found the counseling surprisingly relaxed. "We met with a mediator twice and agreed to share custody. I don't think we could have reached that agreement otherwise without trial."

The mediation law, the nation's first, is a companion to last year's trend-setter: joint custody. That measure set as public policy the idea that children be assured frequent contact with their parents and that parents be encouraged to share the responsibilities of child rearing.

Under the statute, joint custody is a legal priority instead of an option. When both parents agree, shared custody is decreed. When only one parent applies for joint custody, that option is considered by judges along with the more traditional arrangement of sole custody to one parent and visitation rights to the other.

The new mediation measure, sponsored by state Sen. Alan Sieroty, D-Los Angeles, requires mediation whenever custody or visitation rights are divorce issues. The measure also requires that custody disputes be settled before other matters of strife in the divorce.

Under the law, individual counties set up their own procedures for mediation. In Santa Clara County, contested custody cases go first to the special investigation unit of the Juvenile Probation Department for a temporary custody recommendation.

All contested cases must then be scheduled for mediation through Conciliation Court, which provides up to three sessions with one of its mediators. If longer mediation is necessary, referrals are made to private mediators, whose costs vary with the parents' ability to pay.

If no agreement is reached, the case is returned to Juvenile Probation or Family Court Services for evaluation before the trial.

In any case, the mediation process is supposed to remain confidential unless both parties agree otherwise.

The results of mediation are impressive.

"I would guess that about 80 percent of the cases we get are being resolved prior to trial now because of mediation," Hugh McIsaac says of the three years of mediation in Los Angeles. "What we have found is that in most cases the two parents really do care for their children, if not for each other. If given a forum that doesn't inflame the dispute, they can often reach an agreement. The whole psychic atmosphere is in an adversary setting like court. That only shows things and shows people at their worst instead of their best."

In an age of limits and budget cuts, the funding of the mandatory mediation law is another plus. General-state revenues are not used for the program; instead it is funded by each county raising fees charged for divorce filings and decree modifications, as much as $15 and marriage licenses and burden of payment on those who use the service rather than on the public.

The new law is popular with attorneys who have found themselves embroiled in nasty custody battles. "For me, the last and worst alternative is going to court," says Harden Blacher, a San Jose attorney who has handled divorce cases in Santa Clara County for 15 years. "I have encouraged my clients for some time to try mediation. It doesn't always work, but when it does, it saves money and a lot of emotional wear and tear."

"I have found that the mediators at the county are very good, but there are a couple of drawbacks to the public system.

"One, the public mediators don't have the time that a private person does; and two, the hours aren't as flexible. The positive part, of course, is that public mediators are free."

Weiss, whose office has five trained mediators to handle custody cases, says that so far, only a few couples have been referred to private mediators. The law does not specify who is a qualified mediator, but in Santa Clara County at least, those receiving referrals from Weiss' office must have a masters' degree in marriage and family counseling and have at least two years practical experience.

"At first," Weiss says, "I set up the referrals to be a random thing, whoever's name came up. But now, I am re-evaluating it and will probably match people according to geography and perhaps their area of expertise."

Lisa Williams is one of the qualified mediators on Weiss' list. Twice divorced and the survivor of a custody fight of her own, she has handled about 200 cases of custody mediation the last two years. She heads the nonprofit Center for New Beginnings in San Jose, with about 90 percent of her practice dealing with custody problems.

"I'm glad that the law is in effect," she says. "I sincerely believe in the process or I wouldn't be doing this. I think it gives couples a chance to determine their own lives. Even in instances when mediation doesn't work, I have had cases where couples who have not spoken in eight or nine years at least began to talk to each other. That's progress, even if it doesn't solve all the problems between them."

McIsaac believes the mere fact the law exists may be more constructive in the long run than the measure's practical effect. "That is an instance where the shadow of the law can be more important than what the law actually says," he says. "Lawyers will be advising their clients more about mediation because of it and there will be more negotiations. The law now rewards cooperation and that is something it didn't used to do."

A Santa Clara man whose 15-year marriage is breaking up agrees with McIsaac after having settled a visitation dispute with his wife through mediation.

"I think the only people who benefit from the court deciding are lawyers," he said. "I would be in favor of mediation in other areas such as property settlement. Divorce is traumatic but mediation makes the best of a bad situation."

Divorced father seeks clues to son's whereabouts

by Carol Murkowski
Times Writer

The only clue Ray Hitchcock has to his three-year-old son's whereabouts is a faded newspaper clipping describing the boy as the youngest hanglider in Oregon.

Hitchcock's ex-wife, her new husband, and young Ryan quietly left Anchorage two days after Hitchcock got a court order enforcing his right to visit Ryan. Although he has visitation rights, he has not seen or heard from his son since July.

He knows that Ryan has been in Oregon, and is probably living in southern California now; he knows that the boy is hangliding with his stepfather; he knows that Ryan is being taught that his last name is not Hitchcock.

And, although the courts tell him that his ex-wife is in the wrong, he knows there's not much he can do about it.

Hitchcock is a member of Equal Rights for Fathers of Alaska, a group that has been getting its name in the news with increasing frequency by lobbying for changes in domestic relations law.

One of the group's efforts comes up for a hearing Nov. 20 in Anchorage and Fairbanks. House Bill 210 would encourage joint custody arrangements, in which one parent would have physical custody of children, but both would share in the legal, financial and moral obligations to the children.

The bill would help parents like Hitchcock, says Rudy Johnson, president of Equal Rights for Fathers.

"Ray is a perfect example of what happens without joint custody, when parents are forced into litigation to have access to their children," says Johnson.

With joint custody, "at least I'd have a say in what they were teaching my son," Hitchcock adds.

Hitchcock, 28, and his wife Vicki, 26, were married in 1975 and divorced four years later. Vicki was awarded custody of their son Ryan, and a visitation schedule — alternate weekends and one month in summer — was set up.

However, Hitchcock says, Vicki and her new husband often refused to comply with the visitation order, hiding, refusing to let Hitchcock take Ryan for the weekend, and twice beating Hitchcock.

"When I went over, I'd follow the law to the letter," recalls Hitchcock, a stocky young man whose arms are covered with tattoos. "I'd keep my hands in my pockets, and always take somebody with me." Once, when he was refused Ryan, he filed for a writ of assistance, and a state trooper accompanied him to pick up Ryan; even with the trooper's presence, Ryan was not released until Vicki and her husband were threatened with arrest.

In February, Hitchcock filed a suit to enforce his visitation rights. Two days after the court agreed to enforce the order, Vicki left the state.

Her last address was Rockaway, Ore., but Hitchcock hears she has since moved to California. He has been told by Vicki's friends and relatives that she will get in touch with him in the spring, when his summer visitation rolls around.

Hitchcock is worried that Ryan's stepfather takes the boy hangliding with him. The newspaper article he received from Oregon says that Ryan "understands there is a very high element of risk and danger," and Hitchcock is unhappy about it. "I don't have any say in something that I think is dangerous for my son," he says.

The article also uses Ryan's stepfather's name — Griffeth — instead of Hitchcock.

"If Ryan decides one day that his stepfather has been more of a father to him, and he wants to change his name legally, that should be his choice. I'd be hurt, but I wouldn't interfere," Hitchcock says. "But that decision should not be made for him while he's still too young to decide."

Hitchcock admits he has had some bad times in his past which might prevent asking for full custody of his son. He admits to a bout with alcoholism and suicidal tendencies after his divorce, but a psychologist has "assured me that those are normal post-divorce reactions."

He says he is fine now, and "the court has been on my side all the way."

The court ordered Vicki's attorney to find her and tell her to notify Hitchcock and the court where she was living, or a warrant would be issued for her arrest. She complied this summer, and Hitchcock took Ryan for his summer visit in July.

"But since my son left July 30, I have not seen him or heard of him at all," he says. "Apparently she feels I don't have the right to know where Ryan is 11 out of 12 months. But I still have to pay child support, and I feel I have the right to write my son once in a while."

In the meantime, he's trying other avenues. He wanted to put an ad in the Los Angeles Times placing a reward for information on Ryan's whereabouts, but he can't afford the $1,400 it would cost. Neither can he afford a private detective.

And he's researching cases in which "alienation of affection" has been proven, hoping to use it against Vicki. If he can, he'll ask for temporary custody of Ryan until Vicki can come to court and explain her actions. If he doesn't hear from her by spring, when Ryan's annual visit should be arranged, he plans to ask for a hearing to show cause why she is not following the court's orders.

"Until then, my hands are tied."

Your Child

BY BENJAMIN SPOCK, M.D.

JOINT CUSTODY AND THE FATHER'S ROLE

In the United States, one third of all marriages now end in divorce. This concerns me. What concerns me even more is that with this rise in the divorce rate, 1 million more children each year are confronted with the breakup of their families and there are already 6 million single-parent families with minor children.

Though in the long run divorce may be the best solution for an unhappy marriage, close observers agree that with single-parent custody awarded to the mother in 90 per cent of the cases, there is misery for all concerned—children, fathers *and* mothers—at least for a couple of years.

This article, then, is about the relatively new and still-rare practice of awarding custody of children jointly to both parents. It is also a review of a book, *The Disposable Parent*, by Mel Roman and William Haddad, that advocates joint custody.

Roman is a family therapist and professor at Albert Einstein College of Medicine in New York. Haddad, a divorced father of three, is a journalist and business executive.

It was surprising to me to learn from the book that prior to the 20th century, custody customarily was awarded to fathers. Yet the laws of nearly all states, then and now, declare that there shall be no prejudice in favor of mother or father in granting custody, that the determining factor should be the "best interests of the child." In other words, the strong bias of judges, first toward fathers and later toward mothers, has been based on psychological and sociological influences, not on the law.

The description by the authors (and by other observers they cite) of the strains imposed on children and their parents by single-custody rulings corresponds with the picture presented by psychiatric social workers Ruth Atkin and Estelle Rubin in their book *Part-Time Father*, which I reviewed a couple of years ago. It also corresponds with my observations in the course of my professional life. So what follows is a composite description.

Children, at least prior to adolescence, almost universally implore their parents not to divorce, and afterward keep pleading with them to get together again. They show, in a wide variety of symptoms as well as in words, that they badly miss the parent who has moved out.

In their book, Roman and Haddad refer to the "California Study," headed by social worker Judith Wallerstein and psychologist Joan Kelly. (Redbook reported on this study in September, 1976, and published a Young Father's Story dealing with joint custody in June, 1978.) The California Study involved 60 families with 131 children among them, all of whom were studied immediately after and a year after divorce. (The findings shouldn't be considered necessarily true of all children of divorce, since the numbers in each age group were small.) Children two to four years old showed considerable regression right after the divorce in toilet training, whining, crying, irritability, tantrums, sleep problems and aggression. In their fantasies they expressed fear of abandonment. The distress of half of these children was worse after a year, particularly if the parents were still locked in conflict.

The five- and six-year-olds showed anxiety and aggressiveness. A year later a third of them were showing even greater strain. Relations with their fathers usually were improved, but relations with mothers often were worse.

The seven- and eight-year-olds showed the most sorrow and seemed to have the fewest ways of dealing with it; they did not reject one parent but wanted to hold on to both. They expressed longing for more time with their fathers. After a year, half had improved.

The nine- and ten-year-olds seemed to understand the realities and had fewer irrational fears, but they had physical aches and pains. Under the surface they showed feelings of loss and rejection. They tended to feel anger at one parent, and to end up siding with their mothers against their fathers, who had left. After a year half of these children felt better, though their hostility toward their fathers lingered. The other half were more troubled and depressed than they had been before.

Divorce was very painful to adolescent children too, but after a year they no longer felt they had to take sides and could proceed with their own affairs.

At all ages, "the frequency of father contact with the child was associated with more-positive mother-child interactions, and with, in general, a more positive adjustment of the child." The effectiveness of the mother with the child depended on various supportive relationships, but "none was as salient as a positive, mutually supportive relationship of the divorced couple and continued involvement of the father with the child."

Roman and Haddad also discuss what they call the "Virginia Study." This study was directed by psychologists C. Mavis Hetherington, Martha Cox and Roger Cox; it involved 48 divorced families, with 48 intact families for comparison. It focused on parents, children and on parent-child relations. Among its conclusions: Young children of divorce tended to be more aggressive, to whine, weep and have tantrums. Parents had more trouble controlling them. The tension was greatest between mothers and sons. The fathers' departure was more traumatic for children of preschool age. Girls took it easier at this age than boys. But for adolescent girls the fathers' departure seemed more harmful in the sense that they had difficulty establishing good relationships with boys.

The Virginia Study, too, showed that the problems between parents and children were still tough a year after divorce, but that they had improved after two years. As in the California Study, "the children who fared best were those who were free to maintain full and loving relationships with father as well as mother."

A recent Research Conference on Consequences of Divorce on Children, at the National Institute of Mental Health in Bethesda, Maryland, came to the same conclusion: Continuous meaningful contact with the noncustodial parent was a crucial factor in the child's post-divorce adjustment.

The noncustodial father is, to a large extent, divorced from his children as well as from his wife. In many cases he is permitted to see his children only one or two days a week or, in many cases, every other weekend. He may not be allowed to keep them overnight. Some-

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DR. SPOCK

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times he may merely visit them in the mother's home, not take them out.

The interviews with fathers in the Virginia Study made vivid how miserable they themselves were; they felt rejected, depressed and homeless. Some reported that they'd even lost some of their sense of identity. They emphasized how painful it was to visit with their children because of the infrequency of those visits, and the resulting sense of a growing distance between themselves and their children.

Divorced fathers are depressed, I know, because their children tend no longer to turn to them with questions, requests and confidences. They feel keenly the deprivation of their former right and obligation to share in the usual parental decisions affecting their children—allowances, duties, privileges.

Some fathers complain that they are being deliberately humiliated by their ex-wives, who, they feel, take a mean satisfaction in being arbitrary and overbearing in respect to the conditions they lay down for visiting. Often they forbid visits unless alimony is paid up.

As for the mothers, the Virginia Study shows that most are unhappy for at least the first two years after divorce. They feel anxious and angry and helpless. Some complain of feeling unattractive. Two thirds of them have to go out to work (compared to half of nondivorced mothers); and still they have to deal with a reduction in their standard of living. (It is calculated that it costs 25 per cent more for the same number of people to maintain two residences.)

On coming home from the job they have the housework to do, without the help or companionship of another adult. The children's needs, demands, disputes and difficult behavior have to be coped with. And in most cases the children are distinctly less co-operative and more antagonistic than previously.

Most divorced mothers find their social life painfully restricted—by their jobs, by the need to be with their children, by the fact that their old friends are couples who think of entertaining in terms of inviting other couples, not single people, and by the meager opportunities, usually, to make new social contacts.

As Roman and Haddad say, divorced mothers are overburdened and fathers are underburdened.

To summarize at this point: The father's continued closeness to his children is of primary importance to the youngsters and to their adjustment. His co-operativeness with his ex-wife has been shown to be important to her sense of efficacy in dealing with the children and to her good relationship with them. Nevertheless most divorce judgments cut sharply the father's contact with his ex-wife and children. This makes him feel unneeded, unwanted and uncomfortable, and may cause him to decrease his visiting as the months and years go by. It's a tragic vicious circle.

The situation is similarly bad for the mothers in the 10 per cent of cases when custody is awarded to the father.

In regard to the capability of fathers as parents, Roman and Haddad review the psychological and sociological literature and conclude, as I do, that fathers can be just as involved and nurturing as mothers. Today, 1.5 million single-parent families are headed by fathers because of the death or desertion of mothers as well as because of divorce. Fathers who have had custody of their children testify that this experience has decreased their previous preoccupation with discipline and has increased their sensitivity to their children's feelings and to the importance—and joy—of intimacy with them.

The authors plead for joint custody when divorcing parents both are interested—joint custody in the sense of their sharing equally in all important decisions affecting the children and in the sense of sharing the children's time as equally as possible, with the "absent" parent having the children at least a third of the time.

There is a significant chapter in the Roman-Haddad book describing families actually involved in joint custody, three interviewed by the authors, the rest by other researchers. This chapter gives an idea of the wide range of attitudes and occupational situations of such parents and of the schedules worked out to meet individual needs. In most cases it is assumed that both parents must live close to the children's schools. Some of the couples get together comfortably and even enjoy their meetings. Others communicate only about decisions concerning the children. None have found joint custody to be trouble-free.

But all these parents and other observers—including teachers—agree that the children adapt readily to their split homes, and are doing well compared to their pre-divorce situation.

Roman and Haddad are pessimistic about how soon joint custody will be widely accepted. Most judges are strongly biased in favor of mother custody. Lawyers habitually encourage divorcing couples to take adversary positions. And the whole of society, despite the progress made by the Women's Movement, is still saturated with sexist prejudices, so that even independent-minded mothers are apt to feel slightly guilty to ask for less than full custody and fathers are inhibited about admitting that child care should be as important as their jobs.

The authors emphasize the great importance of expert counseling and mediation services to parents before, during and after divorce, and state that such help should be free or with fees based on a sliding scale, depending on the family's income.

As for my own opinion, I've always felt and written that it's vitally important for the divorced father to see his children often and without missing appointments, this for the benefit of the children and to maintain his sense of closeness and responsibility. He ought to see them in his home, where they should have beds and some of their toys, books and clothes so that time can be spent in a "home" atmosphere and the father doesn't have to be always taking them on excursions and giving them treats.

I've stressed that it is crucial for the mother to treat and speak of her ex-husband with respect for the benefit of the children, even if she despises him in some ways, since the children consider themselves half made of him and will think less well of themselves if they are persuaded that he's a scoundrel.

I had always assumed the law specified that children were to be awarded to their mother unless she was patently unfit. Now that I know better, I'm strongly in favor of joint custody for all parents who think they can summon the co-operation required. It will allow children to feel that they still have their father, because they will continue to live with him much of the time and because they know that he is still helping to make the decisions. The father will continue to feel close to his children, that he is participating in their lives and is still partly responsible for their welfare. And though joint custody may confront the mother with frustrating compromises about the children's lives, it should compensate her in most cases by giving her free time and relief from the uneasiness of feeling responsible for all problems and all decisions.

I can see in theory the objections some professionals raise to children living split lives in two homes. But certainly by now we have evidence, not only from cases of joint custody, but also from all the families in which both parents work and preschool children spend all day in a day-care center or in the home of a care-giver, that children can make a good adjustment to two homes when the plans are made with care and with sensitivity to their needs.

I agree about the value of having the children live with the father half or at least a third of the time. But when this is not possible—for example, when the father feels he must live in another city—it would still be an advantage to the children and the father, and often to the mother, to have joint custody anyway, with the children spending some vacations with him, if possible. In this way the children will not feel they are cut off from their father, and the father will retain his sense of relationship to his children as well as his sense of responsibility for them.

THE END

The need for Alaska to switch to 'joint custody' of children

by John Havelock

A BILL NOW pending in the Legislature would make "joint custody" the presumptive form of custody of children in divorce proceedings. This bill should pass.

Up to the late 19th century, children, along with wives, were treated in the law as a special form of property of men. In the rare event of a divorce, the man, of course, kept his property in any children of the union.

Women in the 20th century have shucked off the remnants of their role as property, but the powerful analogy of property rights applied to children has persisted in a number of legal arrangements. Now, the man no longer keeps his title to children. As a new, early 20th century image of woman as omniscient nurturant emerged, the title in children has been customarily passed by the courts to the divorced woman.

THE CHILD'S INTEREST. But children should not be treated on an analogy to property. If a child of divorcing parents, thinking of her own best interests, could speak for herself she would say, "I am not interested in being under the exclusive control of one of you. I want to maximize my relationship with each of you, despite the circumstance that you will live apart."

Joint custody, adopted by California as the presumptive first choice among custody arrangements in 1979, recognizes that the child's logical preference should be honored to the extent possible. Joint custody arrangements can be worked out to fit the personal circumstances of each parent and child.

The current preference in fact for single parent custody has burdened the rest of society with a heavy burden of direct and indirect costs. Unfortunately, but understandably, the parent who "loses" custody will tend to divorce the child along with the parent.

SOLE CUSTODY COST. Directly, this translates into a massive national legal system for the pursuit, frequently unsuccessful, of child support payments and public welfare costs for aid to dependent children. The non-custodial parent, psychologically severed from the child, is permitted to consider the support obligation on the same level as the overdrawn revolving credit account at Sears. In fact, it may be much worse as the non-custodial parent is allowed to indulge in the fantasy that the support payment is actually being used to support the custodial parent in a life of idle debauchery.

Joint custody will not, of course, result in the dismantling of the child support and welfare systems. We will continue to have parents who will prefer to be shed of the child along with the parent. There are lots of people who do not have the psychic capacity to be parents while (regrettably) maintaining the biological capacity. But as joint custody becomes the most common form of custodial relationship, it will help reduce these system costs.

The child is the book. To the extent that the law supports the customary and natural obligation of a parent to care in an immediate sense for the welfare of a child it will strengthen the parent's psychological stake in the child. That link of direct responsibility and caring, in turn, supports the child's claim on the parent for economic support.

RELATION TO DELINquency. The indirect social costs of forced single parent custody are, of course, greater than the direct. When we speak of a child who is the "product" of a "broken" home, we are referring to a child who has been victimized by his divorcing parents. Both parents have put their preference for combat before the interest of the child. Regrettably, the law encourages the adversarial disposition of the child's interests in the context of parental warfare over property and emotional injury.

There is no necessity in this. A divorce need not be a calamity for the child. The divorce becomes the child's disaster to the extent that the relationship with one of the parents is seriously diminished and the role model and learning bond severed. The society bears this cost in delinquent acting out by the hurt and angry child.

CHANGING MARRIAGE CUSTOMS. A generation ago, custom dictated that unhappy parents stick together "for the sake of the children." The current conventional wisdom is that the state of unhappiness in such cases was such that the interests of the child were not in fact served by the cohabitation. However, it is likely that in many cases the parental sacrifice worked, when one or the other spouse adjusted to lower expectation from the marriage relationship.

Contemporary adult Americans are less likely to sacrifice their own interests on this justification. For better or worse the trend to multiple marriages continues. Its increasing ordinariness has made divorce less explosive and less painful for parents and child alike.

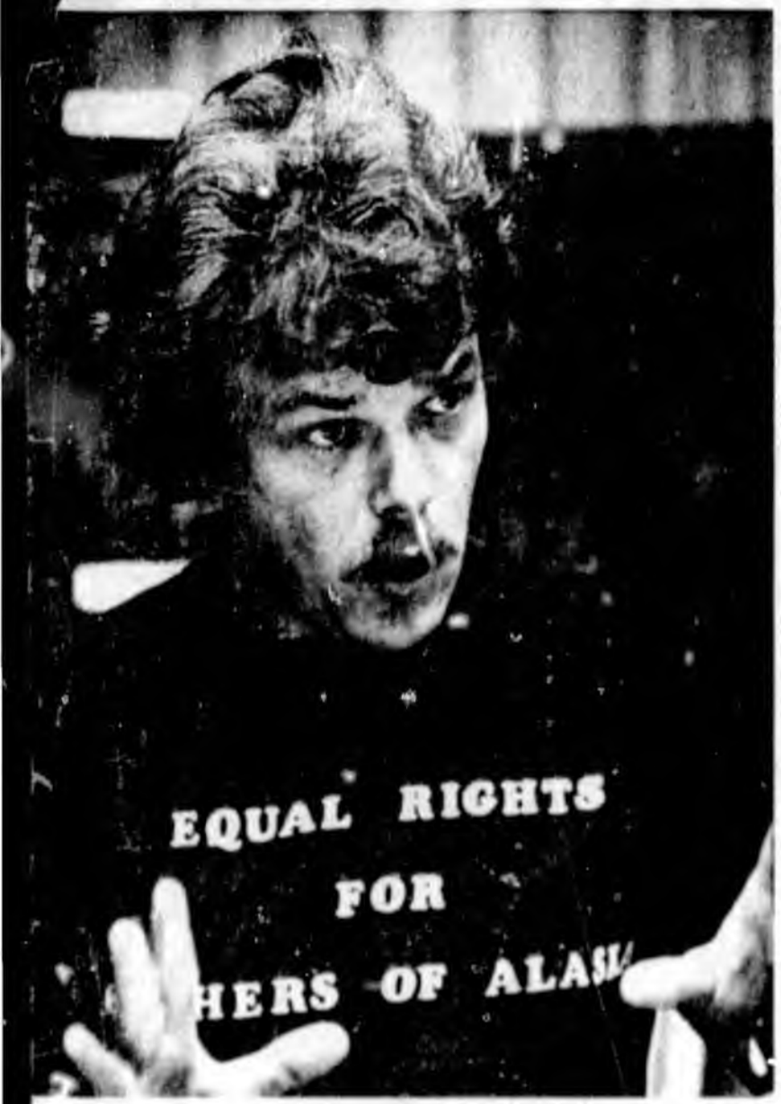
The last remnants of "fault" divorce are now eliminated from the statutes. But our treatment of custody as an adversarial contest of title in the child remains.

While recognizing the best interests of the child in a number of other legal arrangements, the law of child custody has not kept up with the changing social order. We incorrectly assume that the child's interest consists of putting all the chips in one basket. On the contrary, in a divorce, the presumptive best interest of the child is to maximize her relationship with each parent. Alaska should follow California in encouraging joint custodial arrangements.

John Havelock is director of legal studies at the University of Alaska, Anchorage. He served as attorney general to Gov. William A. Egan, was a White House Fellow in the Johnson administration and has won several Alaska Press Club awards for writing.

Berry's World

"I submit that we should all go down to the Caribbean Basin and check things out while the weather is still crummy around here."



RUDY JOHNSON
". . . children's rights not protected . . ."

Divorce settlements

Group fights for fathers' rights

By DEBBIE CARTER
Staff Writer

Only eight fathers fighting for custody of their children in Anchorage courts won over a two-year period, the head of a fathers' rights group says.

And 11 judges out of 12 studied never awarded custody to a father, according to Rudy Johnson of the Equal Rights For Fathers of Alaska.

"We've really got a problem," he said in an interview with the Daily News-Miner this morning.

Although the Anchorage-based group didn't study cases involving Fairbanks or other courts around the state, Johnson says he suspects the same results judging from phone calls he gets from distraught fathers.

To correct what he calls a gross imbalance in custody awards, Johnson says, the group plans to file a class-action lawsuit next week naming those Anchorage judges. It will seek a federal-ordered "affirmative action plan" among state judges, he said.

"We want the courts to clean up their acts," he said.

The basis of the lawsuit is claimed civil rights violation of fathers and children.

Johnson said a 1978 decision in a federal court said that statistical imbalance alone provides a case for discrimination.

The study done by his organization over the past seven months reviewed 4,291 divorce cases resolved in Anchorage courts in 1979 and 1980, he said.

The study showed that judges awarded custody to fathers in 11.4 per cent of the cases and joint custody was awarded in 7.3 per cent of the cases.

"There obviously aren't too many judges sympathetic to the rights of children and fathers. The best interests of the children are not being protected. They're being flaunted."

But in the 318 cases where custody was contested, judges almost uniformly gave it to mothers, he said. Fathers were awarded custody of the children only 2.6 per cent of the time.

That is almost half the national average, Johnson said.

Judges who must make custody decisions based on the best interest of the child regularly decide it is not in the child's best interest to be with the father, he said.

"There obviously aren't too many judges sympathetic to the rights of children and fathers," Johnson said. "The best interests of the children are not being protected. They're being flaunted."

Johnson said the judges in Anchorage aren't following the intent of the Legislature in considering custody awards.

Judges are supposed to consider many factors, he said, including the preference of the child, and the desire and ability of the parents to allow an open relationship between the child and the other parent.

This is being ignored blatantly, Johnson said.

In many cases judges do not enforce visitation violations, he charged.

Johnson, who often takes calls from upset fathers, mothers and even grandparents who are denied visits with their children, said he heard the worst story last week.

At a fund-raiser to raise money for their federal lawsuit, he said, a father told him of his ex-wife refusing illegally to allow him to see or talk to his children for three years.

This was in spite of court-ordered visitation, Johnson said.

A son died, the man said, and his ex-wife refused to allow him to see the youth at a funeral home and to talk to the remaining three children at the funeral.

Johnson estimates his organization, which boasts 50 members in Anchorage, gets about 30 calls a week, he said.

The seven-year-old organization refers people embroiled in custody disputes to lawyers and gives clients legal direction and advice.

Johnson himself led his own custody dispute, seeking to regain custody of his two children through state courts for five years. Ultimately his case overturned the "tender years" doctrine in 1977.

The doctrine said that other things being equal, a mother should be given preference for custody of children in their early years.

But Johnson maintains that the results of his study show that things really never changed with that decision, and with other guidelines set by the Legislature.

He said he will ask legislators next year to fund a study of custody patterns of all the judges in the state. And he is lobbying for a law requiring judges to state their reasons in detail if joint custody is not awarded in divorce cases.

House Bill 210 is in the House Health, Education and Social Services Committee and has to go through another committee before a vote is taken by the House.

Although some things may be legislated, Johnson said he believes there needs to be a change in attitude among judges and child psychologists who make recommendations to the court on who should be awarded custody.

He cites an Anchorage custody case which was resolved last week involving a woman who consistently denied her husband visitation rights to their child.

After a lengthy legal dispute and numerous court orders, contempt citations to the mother, a judge gave custody of the child to the father.

"That is the kind of attitude we need," he said.

Bill would make joint child custody the rule

y Carol Murkowski
imes Writer

Shared parenting could be the ule, rather than the exception, if a roposed bill on joint child custody asses the 1982 state Legislature.

Some 37 states already have ei considering joint custody, bi th parents share in making ecisions about their children, rather an just the parent who has physi- al custody. House Bill 210 is now be- re the Health, Education and So- al Services Committee, and hear- gs will be held Friday at the Leg- lative Affairs office in Anchorage d via teleconference in Fairbanks.

The bill will require judges to first consider a joint custody agreement in warding child custody. If parents object to joint custody, they may contest it.

"Joint custody does not necessarily mean equal time; it means equal responsibility and equal rights legally," said Rudy Johnson, president of Equal Rights for Fathers of Alaska, which is backing the bill.

Today, Johnson said, a parent who does not have custody of his children cannot authorize emergency medical treatment, take part in a parent-teacher conference, obtain school records, or visit a hospitalized child without the consent of the custodial parent.

Johnson told of a father whose six children are in Minnesota, who has been denied his visitation rights for three years. "There's no allegation of child abuse or unfitness," Johnson said. "It's just an angry custodial parent."

While he and his wife's attorneys wrangled in court, the father's letters and presents to the children were returned. Recently, when he learned that one daughter was to undergo open-heart surgery, the father went to Minnesota to be with her; the doctor told him his ex-wife refused to let him see the girl.

Shortly after the daughter's surgery, a son was killed in a car accident. The father was denied a visit to the funeral home. "The funeral director was shocked, but his hands were tied," Johnson said.

Two weeks ago, the father received the bill for the funeral he was not allowed to attend.

Such animosity between parents is one argument often quoted by opponents of the bill. If parents cannot get along while they're married, how are they to agree on the issues of child-rearing when they're divorced?

In a letter to the House HESS committee, Superior Court Judge Victor Carlson argued that HB 210 "would result in many opportunities for confrontation in which the child would be caught in the middle, e.g. the choice of a school, public or private, alternative or basic, etc. Neither parent would have the authority to make the decision and the child would be torn in having to make a choice and then the matter, ultimately, would have to be decided by the court."

However, Johnson argued that if joint custody were a priority, families contemplating divorce "would have to start thinking right away about working together for the benefit of the children."

From a thick stack of papers he pull out a 1980 California study which shows that 16 percent of joint custody divorce cases returned to court to settle differences, as opposed to 31 percent of sole custody cases.

Johnson also believes that joint custody will reduce the amount of time spent in domestic court because "parents will have to work together," he said. "They'll learn that even if they don't love each othe any more, the only way to work things out is to work togeth for their kids' sake."

HES
March 26
HB 210
Judge Carlson - this is impractical for day to day decisions.
This there may be continuous conflicts

Grant Calo - Ab Ct. Systems

If we should go forward with shared custody what impact would result in seperated parents demanding re-evaluating their past agreements or arbitrated decisions

Mrs Stevens?
Manipulators - to what degree is the mom in unfund homes or seperated.
Ab. Ct. Systems. custody investigator Kids manipulate at all time - hackers - send notes, cookies ???
P3 L 7 to - there is - Ct. should determined.

P5 - L 3-5 - Prof. on Board.

Nina Kenny - H.S.S. - supports 210

Cruit Hoaf - as private citizen supports 210
His wife agrees also - both present partners and children and want shared relationship.

Sandra Burstrom - shared is beneficial to parents but not to the child.
P.1 l. 12-15 - confusing 50%-50% does not work.

Judge Moody - US House # 210 C

rebuttable presumption —

previous Bill 3 Sec. 4

Don Homes ←
Access to records —

Pros

Shirley R Dean - feels this bill is unnecessary —
No fault Socity - now available

N.O.W. is opposed to HB 210

John Wood - Atty
rebuttable pre-sumption.

prime purpose should be what is in the best interest of child.

Terry Caucus at 4:30

~~Linda~~

Rudy Johnson *

Judith Bank - AB Legal Service

Willie Hilloya - child preferred "maturity" should be used
p 3 sec (D) need more words

Ketchikan - concerned about pressures on childs
Believes overall shs bill is beneficial

Carla Slaughter - Fmly. - is now involved in child custody - It is good for her and her children and ex-husband

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Larry Sweet - Father - 2 sons from Fmly.
The process need to be in law - and agreed upon in the divorce - joint custody system

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Francis Stevens - Male - Custody Investigator in Anch.
Cts. have had joint custody since 1979 - 20% + take advantage of.
Judge Moody I Cts. System does not advocate.
* We do need to develop a system to help people to be evaluated and programed.

Bill Woods? - OK on the Bill.

Bob Keller - 1966 Divorced - Wife got custody - 1973 he did get child short period, later wife took child back - Judge Moody could not help him.

Carla Hal___ - Parents were seperated - she was 15 and sister was 7. Worked out well.
She feels she getting acf limited would not be good.
Joint custody is most less painful and makes divorce easier.

John Reese - Atty - Family Law Comm. Chairman of BAR
Is there a presumption that joint custody will be?
Sometimes parents talk about joint cus as a prevention from losing children all together.
add provision for judge to acknowledge joint custody and not a promise on denial

Willie Williams –
Continuity is important – especially
in school etc. at !

Charges advantage – one dom. / 3 whites

Special needs – ? ? ? ?

S. Bella O' Rourke – Women in arrest –
Feb.

Dear Peterson – And Atty –
Favorable
C.S. does not go far enough as
original bill
but prefers "pre – –
read Judge Schultz's letter
greater emphasis on Solicitation.

Mrs. John Rush –
C.S. has child

Paula Hawley – Domestic Violence & Juvenile
presumption is reversed.

Lewis _ _ - Felt bill should be passed -
Children need both.
" need to identify w/ both parents.

Jan Flow — Ketchikan - is involved in divorce -
Husb. was alcoholic - small cleaning - Husb. wants shared custody.

Lois Nelsen - M.F.W. Ketchikan - feels there is resentment by single parents that there is not the other to help -
There is need for a system to help people.

Soldotna - Mary Lamichael Dr. NNN

Karla Huntington - Juneau

Timothy Lynch [redacted] Atty - Burned out after 8 yrs of divorces -
Classic case that works.

Bruce Berget - Joint Custody in his life is working.
He is now a volunteer instructor that helps to solve the trama of divorce and starting their children.

Don't divorce the child -

Pope Welch -

Dene Johnson - ACC - Mediator
Often phrase often - "What's going on here".
Crt. procedure - Discourage joint custody —
Sex Servers " " " " etc.
XYY persons are often not encouraged
self-serving for agencies self serving — legal system see more demands for their services etc

The system feeds off the trama / divorce.
parents are going through. Positive approach 1st

Mr. William Hitchcock - Yes, but not to Bill - put on back
Don't make the From Crt. System.
Bill "presumptive" or Statistics
"mandatory". Polarizing the system -
maybe use the Prof. Vs amateurs.
phrase "rebuttable 25:20:130 eliminate
presumption." 25:30:070 -

Leg. are averaging citizens. —
The citizens are getting aggravated for fairness and it seems the crts are not cognizant of this.

Crt. have been ingnored by the Leg. to make the presumptions -
but

Joyce Rivers - Atty. - N.O.W.
Concerns - ~~Implementation~~ -
Legal presumption - ???

Defind - Joint custody - shard custody -

??? 25:20:130 - Preferences or awards.

Brad ____ of
1979
1980 } 2,254 case

1271 non cont.

30 43 - = fild for custo
275 for women 80.2
79 " mail 11.4 % -
Joint 7.4 %
Split custody 3.

Karla Huntington - Atty - Crises Network

Larry Carter - The Bill would ~~eliminate~~ the
courts concepts that male are not ~~pre~~ presumb
" " are batterers
" " " ____
" ____

~~Lt~~ William Holst - Atty - Does handle custody cases
Judges are not bias -
Is in favor of the bill.

% of cases you settled
joint
Mole
female

New image of ↓ !!! Is there problem of people caught in trans

Francis Stevens - Crt. System

Custody Investigator - 1,700 cases

Favors Joint custody - not mandatory.

We are talking about 10% of total divorces but some mediation helps decrease crt. cases

Need marital mediation -

John Reese - Atty - Family and Law Comm. of ABA.

We need a "Family Court" ~~not~~ to allow people direct assets for settlement and not need to go through lawyers -,

Conciliation Courts in Calif. are a joke - they are not used -

Family Councils should be used to solve problems

Lynda Williamson - Generally agrees with Joint Custody - but.

Joan Bennett Shoeder

p 6 - lns 3-6 -

Ruth Lester - Director of Women in Crisis" -

Against "presumption of joint custody" -

Willie - Barrow - strong support

Jay B Mathew - Fabs - strong support

Jerry Hoke - Very supportive - of HB 210

Rudy _____ Leader of Equal rights for father

Jim Borden - excellent HB710 - but voted "violence" in family.
There is certainly the element of punishment as he being deprived by his ex-wife of visitation.

Bob Hammer - Also member of Equal Rights for Father

New man - System is so bad now that the father and his ex-wife are going to do their own thing outside of the court or paying lawyers.

Pat Hammer - Officer and member Equal Rights for Father