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COMMITTEE REPORT

SENATE

1/11/62

FURTHER: Judiciary

Date: _____

Mr. President:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SB 637

liability of public employees for an injury resulting from a determination relating to probation or parole

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)
- replace with CS for SB 637 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

CHAIRMAN

Amendments:

SB 635

Line 11. Sec. 33.05.075. IMMUNITY OF PUBLIC EMPLOYEES OR PUBLIC OFFICERS.

line 12. or public officer is not liable for an injury

line 17 Sec. 33.15.255. IMMUNITY OF PUBLIC EMPLOYEES OR PUBLIC OFFICERS.

line 18. or public officer is not liable for an injury

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

January 28, 1982

Hon. Charles Parr, Chair
Senate HESS Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SB 635; Immunity of public
employees from liability for
parole/probation decisions

Dear Senator Parr:

At your request, we have reviewed SB 635, regarding immunity of public employees from liability for decisions regarding probation or parole. We understand that the bill is intended to protect persons who have responsibility for making parole and probation decisions from civil liability for injuries which may be inflicted by persons on parole or probation. We believe that the bill as drafted would probably be interpreted to achieve this result.

However, since the term "public employee" is not defined either in the bill or in the chapters of Title 33 which the bill amends, there is room for doubt whether the bill would protect members of the parole board or the commissioner of health and social services, who are not generally considered to be employees. Members of the parole board are considered as employees for the purposes of worker's compensation, AS 23.30.-242, but not for other purposes, including compensation or leave accrual, AS 39.20, 39.20.150. Commissioners are considered to be officers rather than employees of the state under AS 39.

This potential ambiguity may be removed by amending section 2 of the bill to include "A public officer or employee or member of the parole board" Since section 1 of the bill amends AS 33.05, the Probation Administration Act, it need not refer to the parole board. It should, however, include "public officer" as well as "public employee."

As an alternative to perpetuating the distinctions between officers, employees, and members of boards and commis-

Hon. Charles Parr
Chair, Senate HESS Committee

January 29, 1982
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sions, you could amend the bill to provide as follows:

No person who has authority to make probation/
parole determinations may be held civilly lia-
ble for injuries resulting from an act or omis-
sion within the scope of that authority.

We hope that these comments are helpful.

Sincerely yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Laura L. Davis
Assistant Attorney General

LLD/pjg

cc: Hon. Bill Ray
Alaska State Senate

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